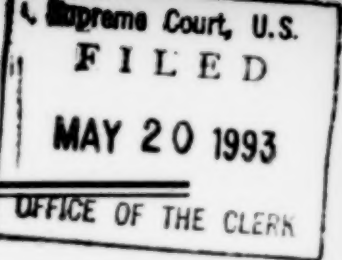


(6)
No. 92-1074



IN THE
Supreme Court of the United States

OCTOBER TERM, 1992

JOHN HANCOCK MUTUAL LIFE
INSURANCE COMPANY,

Petitioner,

v.

HARRIS TRUST AND SAVINGS BANK,
as Trustee of the Sperry Master Retirement Trust No. 2,

Respondent.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

JOINT APPENDIX

HOWARD G. KRISTOL
Counsel of Record

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Attorneys for Petitioner

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Attorneys for Respondent

PETITION FOR CERTIORARI FILED DECEMBER 22, 1992
CERTIORARI GRANTED MARCH 22, 1993

266 pp

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¹ References to pages of the Appendix included in the Petition for a Writ of Certiorari are cited as "PA-", followed by the page number.

Docket Entries, Southern District of New York

JA-1

208 83 5401 07 20 83 110 1 1 3 M 36061 P

PLAINTIFFS

CHASE MANHATTAN BANK, N.A. as Trustee of the Sperry
Master Retirement Trust No. 2 Caption amended 12/5/88 . . .
GC HARRIS TRUST & SAVINGS BANK, as trustee of the Sperry
Retirement Trust No. 2 (and its successor, the Unisys Master Trust).

CHASE MANHATTAN BANK, N.A. (substituted as pltff on
12/5/88 but remaining as a counterclaim deft.)

DEFENDANTS

JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY
and 3rd Party Pltfff

V

SPERRY CORPORATION and THE RETIREMENT COM-
MITTEE OF SPERRY CORPORATION

3rd Party Defts.

CAUSE rl

(CITE THE U.S. CIVIL STATUTE UNDER WHICH THE CASE
IS FILED AND WRITE A BRIEF STATEMENT OF CAUSE)

28 U.S.C. 1332 Breach of Pension Contract

ATTORNEYS

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New York NY 10111
841-5700

(Pltff & Sperry)
Anderson Russell Kill & Olick & OSHINSKY
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☐ Check here if case was filed in forma pauperis
Filing Fees Paid Date: Jul 20, 1983
Statistical Cards Date Mailed JS-6 8-16-91
United States District Court Docket Receipt Number 23247

JA-2

DATE	NR.	PROCEEDINGS
07-20-83	1	Fld Complaint - Issued Summons and Notice purs to 28 U.S.C. 636c
08-02-83	(2)	Filed and affidavit of service by an individual served: John Hancock Mutual Life Ins. Co — to NY State Ins. Dept. Supt of Ins. by Rochelle D. Tolkoff, Senior Atty on 7-21-83
08-26-83	(3)	Filed stip and order extending time of deft John Hancock to answer complaint to Sept. 19, 1983 SO ORDERED. GOETTEL, J
09-16-83	(4)	Filed stip and order extending time of deft to answer complaint to Oct. 19, 1983 SO ORDERED. GOETTEL, J
10-20-83	(5)	Filed ANSWER RMMHMK
10-25-83	(6)	Filed Pltff's First request for production
10/27/83	7	Filed Notice of Reassignment of action to J. KEENAN. Notice Mailed,.
10/31/83	8	Filed pltff's notice of demand for jury trial.
11/22/83	9	Filed Stip & Order Re: Interrogs and documents. KEENAN, J.
1/19/84	10	Filed Stip & Order-pltffs time to answer in-terrogs and both parties time to produce documents is ext to 2/21/84. KEENAN, J.
3/15/84	11	Filed defts notice to take the Deps of G.B. Buck on 4/16, Johnson & Higgins on 4/18 and of Deloitte Haskins & Sells on 4/20/84. Subpoena issued.
3/15/84	12	Filed defts notice to take the Deps of R. Rskin on 4/23 and of George Swick on 4/25/84. Subpoena issued.
3/26/84	13	Filed Richard Raskins' notice of objs to the Dep subpoena svd on him by "Hancock".

JA-3

3/26/84	14	Filed G.B.Bucks' objs to Dep Subpoena svd on them by "Hancock".
3/27/84	15	Filed Johnson & Higgins objs to the Dep subpoena duces tecum svd on it.
3/28/84	16	Filed Stip & Order-pltff may file and sv its amended complaint and the deft shall have 30 dys in which to answer. KEENAN, J.
4/2/84	17	Filed Order to have this action assigned to a Mag. to schedule and supervise the completion of discovery. KEENAN, J.
4/3/84	18	Filed Amended Complaint.
4/3/84	19	Filed pltff's Demand for Jury Trial with respect to the Amended Complaint.
4/3/84	20	Filed Order assigning this action to Mag. Grubin to schedule and supervise discovery. The Magistrate will notify the parties. BER-NIKOW, J.
4/9/84	21	Filed designation of Merrill Greenstein to appear for Dep purs to deft's notice to take Dep dtd 3/15/84.
4/11/84	22	Filed pltffs' notice of motion to compel prod of documents, noted for 5/4/84 before Mag. Grubin.
4/11/84	23	Filed memo in Support of its Rule 37 motion to compel production.
4/25/84	24	Filed Deft's memo in opp to pltff's motion to compel further prod of documents.
5/3/84	25	Filed pltff's Reply Memo in further support of its Rule 37 motion to compel prod.
5/7/84	26	Filed Stip & Order-ext time for deft to answer to 5/30/84. KEENAN, J.

JA-4

5/7/84	27	Filed Order-Scheduling discovery and production. GRUBIN, MAG.
5/31/84	28	Filed ANSWER and counterclaims. RMHM&K
5/31/84	29	Filed Third Party Complaint. 3rd Party summons issued.
6/1/84	30	Filed 3rd party summons w/ret of svc-The Retirement Committee of Sperry Corp. by Ronald Anderson Asst Scty on 5/31/84. Svd-Sperry Corp. by Ronald Anderson Asst Scty on 5/31/84.
6-21-84	31	Fld Stip & Order-Ext plttf's time to respond to deft's counterclaims to 7/20/84. Keenan, J.
7/20/84	32	Filed Sperry's ANSWER to the third party complaint of Joh Hancock Mutual Life. ARK&O
7/20/84	33	Filed plttf's Reply to Counterclaims of John Hancock Mutual Life. ARK&O
8/20/84	34	Filed Stip & Order-time for Hancock to obj to or answer interogs is ext to 9/19/84. KEENAN, J.
4-11-86	35	Filed NOTICE OF REASSIGNMENT to Judge Cedarbaum, as of 4-10-86. m/c
9-11-86	--	PRE-TRIAL CONFERENCE HELD BY Mag Grubin.
11-12-86	--	PRE-TRIAL CONFERENCE HELD BY Mag Grubin
11-24-86	--	PRE-TRIAL CONFERENCE HELD BY Mag Grubin

JA-5

11/26/86	36	<i>Fld. Order of Confidential Treatment, that the party filing any Confidential discovery material shall be responsible for informing the Clerk of the Court that the filing should be sealed & for placing the legend "to be Fld. Under Seal purs. to order of 11/26/86, etc. as indicated . . . Mag. Grubin Cmc</i>
1/23/87	37	<i>Fld. Order Amending Order of Confidential Treatment, that the Order is hereby amended by substituting the annexed form of exhibit A in place of the exhibit a originally annexed thereto..Mag. Grubin cmc</i>
3-11-87	--	Pre-Trial Conference Held By Mag Grubin
7-16-87	38	Filed transcript of record of proceedings dated 7/7/87 NFL
7-14-87	39	Fld ORDER, granting that Plaintiff's application for further information is denied, claim of privilege is upheld. So Ordered Grubin, M. CMC
8-11-87		PRE-TRIAL CONFERENCE HELD By Mag. Grubins
8-13-87	40	Filed transcript of record of proceedings dated 8/11/87 RFG
8-28-87	41	Fld. Plaintiffs Notice of Deposition upon oral examination of Gross Hyde & Williams on 9-23-87. RFG
10-2-87	42	Fld. Plaintiffs Notice of Deposition upon oral examination of deft John Hancock Mutual Life Insurance Company on 10-14-87. RFG

JA-6

10-23-87	43	Fld. Plaintiff Notice of Deposition upon oral examination of John Thomas H. Hogan, Jr. On 11-19-87 Constance E. Williams 11-17-87 Stephen Lee Brown 11-24-87 Robert Clancy 12-1-87 David E. Sunderland 12-8-87 Alan R. Young 12-15-87 John R. Leen 12-17-87 John C. Penny 12-22-87 RFG
11-10-87	44	Fld. Plaintiffs Notice of Deposition upon oral examination of Donna Morrison on 12-17-87 and Samuel E. Shaw on 1-6-88 and Sally Pearson on 1-12-88 Klaus Shigley on 1-19-88 Joseph Macauley on 1-26-88 Charles A. Pierce on 2-2-88 James W. Moriarty on 2-9-88 Philip Jefferson on 2-16-88 Arthur T. Connolly, Jr. on 2-23-88 George Gabriel on 2-26-88 Loring Powell on 3-1-88 Michael B. O'Toole on 3-8-88 E. James Morton on 3-15-88 Franklin E. Peters on 3-22-88 Henry H. Winslow on 3-29-88 Barry Shemin on 4-12-88 Robert Trapp on 4-15-88 Bertram Pike on 4-19-88 John G. McElwee on 4-26-88 (Filed in overnight box 11-10-87)
11-10-87	—	PRE-TRIAL CONFERENCE HELD By Mag. Grubin RFG
11-30-87	—	Pre-Trial Conference Held By Mag. Grubin RFG
11-24-87*	—	Pre-Trial Conference Held By Mag. Grubin RFG

JA-7

11-24-87	—	PRE-TRIAL CONFERENCE HELD BY MGC
12-8-87	—	PRE-TRIAL CONFERENCE HELD BY MAG. GRUBIN
12-14-87	—	PRE-TRIAL CONFERENCE HELD By Mag. Grubin RFG
12-21-87	—	Pre-Trial Conference Held By Mag. Grubins RFG
1-5-88	—	PRE-TRIAL CONFERENCE HELD BY MAG GRUBIN
2-3-88	—	PRE-TRIAL CONFERENCE HELD BY MAG GRUBIN
2-2-88	—	PRE-TRIAL CONFERENCE HELD BY MAG GRUBIN
2-9-88	45	Fld. Plaintiffs Notice of Deposition upon oral examination of Franklin Peters on 2-19-88. RFG
2-16-88	46	Fld. ORDER with respect to plaintiffs application for further responses to interrogatories 6(iv), 26, 27 and 29 of its First Set of Interrogatories: granted as to interrogatory 6 (iv) etc. So Ordered Mag. Grubin CMC RFG
2-18-88	47	Fld Deft. John Hancock Mutual Life Insurance Company's Notice of Deposition upon oral examination of Lloyd Kaye, c/o Mercer-Meidinger-Hansen Incorporated on 2-22-88. HL
2-22-88	48	Fld Plt's Objections to magistrate Grubin's Order Denying Plt's Discovery Requests. HL

JA-8

2-18-88	49	Fld. Stip. & Order of Deposition Schedule agreed to by plaintiff and defendant. So Ordered Mag. Grubin
3-1-88	50	Fld. Deft's Response to Pltf's objections to Magistrate Grubin's Order Denying Pltf's Discovery Requests. HL
8/4/88	51	Fld. plttf's Affidavit of Filing of Joint Pre-Trial Order Volumes I & II under Seal. EM
7/29/88	52	Fld. one envelope ordered sealed & impounded per order of Judge Cedarbaum dated 11/26/86. Contents: Vol. 1.
7/29/88	53	Fld. one envelope ordered sealed & impounded per order of Judge Cedarbaum dated 11/26/86. COntents: Vol. 2. EM
9/16/88	—	Pre-Trial Conference Held By MGC EM
11/23/88	54	Filed transcript of record of proceedings dated 11/10/87 EM
11/23/88	55	Filed transcript of record of proceedings dated 12/21/87 EM
11/23/88	56	Filed transcript of record of proceedings dated 1/5/88 EM
11/25/88	57	Fld plttf's Notice of Motion for partial summary judgment. Returnable 2/3/89. EM.
11/25/88	58	Fld Memo in support of plttf's motion for partial summary judgment that deft is Erisa fiduciary. EM
11/25/88	59	Fld Affidavit of Lawrence Kill in support of plttf's motion for partial summary judgment. EM
11/25/88	60	Fld deft's Notice of Motion for an order dismissing plttf's amended complaint. Returnable 2/3/89. EM

JA-9

11/25/88	61	Fld Memo of deft in support of motion for partial summary judgment. EM
12/5/88	62	Fld Order on Consent substituting parties. Harris Trust & Savings Bank shall be substituted in place of Chase Manhattan Bank, N.A. Chase Manhattan Bank, N.A. shall be realigned as a counterclaim deft. . . Cedarbaum, J. cmc
11/23/88	63	Fld one envelope ordered sealed & impounded per order of Judge Cedarbaum. Dated 11/23/88. Contents: night box.
12-16-88	64	Fld Order that plttf's application to compel pre-trial production of a memo dated 2/11/75 is denied . . . Cedarbaum, J. cmc EM
12-27-88	65	Fld Notice of Reassignment to Judge Patterson dated 12/20/88. cm EM
12-9-88	—	PRE-TRIAL CONFERENCE HELD BY J. CEDARBAUM
1-9-89	66	Fld. Deft Counterstatement purs. to civ. rule 3(g). NW
1-9-89	67	Fld. memorandum of deft John Hancock Mutual Life Ins. Co. in opposition to pltf's motion for partial summary judgment that deft is an Erisa Fiduciary. NW
1-9-89	68	Fld. Pltf's Memorandum in opposition to deft's motion for partial summary judgment. NW
1-4-89	—	PRE-TRIAL CONFERENCE HELD BY J. PATTERSON

JA-10

1-30-89 69 Fld. Reply Memorandum of deft Hancock Mutual Life Ins. Co. in support of its motion for partial summary judgment upon agreed statement of facts. NW

1-30-89 70 Fld. Supplemental Affidavit of Lawrence Kill in further support of pltf's motion for partial summary judgment. NW

1-30-89 71 Fld. Pltf's Reply Memorandum in support of its motion for partial summary judgment that deft is an Erisa Fiduciary. NW

1-30-89 72 FLD. ONE ENV. ORDERED SEALED & IMPOUNDED PER ORDER OF MAG. GRUBIN DTD: 11-26-88. NW

1-30-89 73 FLD. ONE ENV. ORDERED SEALED & IMPOUNDED PER ORDER OF MAG. GRUBIN DTD: 11-26-88. NW

4-10-89 74 Fld. letter to J. Patterson dtd:4-7-89.

4-24-89 75 Filed Transcript of record of proceedings, dated 2-3-89

7/7/89 76 Fld. Notice of Name Change of counsel for plaintiff, counterclaim defendant and third-party defendants from Anderson Russell Kill & Olick to Anderson Kill Olick Oshinsky. sc

9-26-89 77 Fld. OPINION #64934,.. In conclusion, this Court holds that John Hancock is not a fiduciary with respect to the Sperry Rand Master Retirement Trust No. 2. Accordingly the deft's motion for partial summary judgment is granted, and the pltf's motion for partial summary judgment is denied. The first count of the pltf's amended complaint is hereby dismissed. PATTERSON J. cmc NW

JA-11

9-26-89 78 Fld. OPINION & ORDER #64934,.. In conclusion, this court holds that John Hancock is not a fiduciary with respect to the Sperry Rand Master Retirement Trust NO. 2. Accordingly, the deft's motion for partial summary judgment is granted, and the pltf's motion for partial summary judgment is denied. The first count of the pltf amended complaint is hereby dismissed. PATTERSON, J. cmc NW

10-10-89 — PRE-TRIAL CONFERENCE HELD BY J. PATTERSON

10-20-89 79 Fld. Pltf Notice of motion for an order for reconsideration of reargument, ret:11-3-89. NW

10-20-89 80 Fld. Pltf's memorandum of law in support of its motion for (a) reconsideration reargument, (b) supplementation of the record and (c) certification for appeal of entry of final judgment. NW

11-1-89 81 Fld. Memorandum of deft John Hancock Mutual ins. Co. in opposition to pltf's motion for reargument or for permission to take an immediate appeal. NW

11-2-89 82 Memo-Endorsed on letter to J. Patterosn dtd: 11-1-89, Application granted pltf will serve its reply papers on 11-9-89—return date will be 11-15-89. PATTERSON, J. NW cmc

11-9-89 83 Fld. Pltf's Reply Memorandum in further support of its motion for (a) recons. of reargument, (b) supplementation of the record and (c) cert. for appeal or entry final judgment. NW

JA-12

1-4-90	84	Fld. ORDER,.. Accordingly, pltf's motion for reargument is denied,. Pltf's motion denied in its entirety. PATTERSON, J. cmc NW
1-12-90	85	Fld. ORDER,.. Accordingly, the Court denies pltf's motion to supplement the record because of the absence of any directive or necessity in the interests of justice supplement the record upon the motion for reargument. Pltf's motion is denied in its entirety. PATTERSON, J. cmc NW
1-30-90	86	Fld. Deft and thirdparty pltf Notice of motion for an order for summary judgment ret: 2-9-90. NW
1-30-90	87	Fld Deft and thirdparty pltf Memorandum in support of motion for summary judgment missing the remaining claims in pltf's amended complaint. NW
2-8-90	88	Memo-Endorsed on letter to J. Patterson dtd: 2-6-90, SO ORDERED. Pltf's papers in opposition 3-23-90, Hancock's reply papers 5-8-90, Oral argument 5-17-90 at 4pm PATTERSON, J. cmc NW
3-23-90	89	Fld. Pltf Affidavit of Roger G. Ibbotson. NW
3-23-90	90	Fld. Pltf Affidavit of Daniel J. McCarthy in support of opposition to motion. NW
3-23-90	91	Fld. Pltf Counterstatement purs. to civil rule 3(g). NW
3-23-90	92	Fld. Pltf Affidavit of Lawrence Kill in opposition to deft's motion for summary judgment. NW
3-23-90	93	Fld. Pltf Affidavit of Thomas V. Hirschberg in opposition to motion. NW

JA-13

3-23-90	93	Fld. Pltf Affidavit of Thomas V. Hirschberg in opposition to motion. NW
3-23-90	94	Fld. Pltf memorandum of law in opposition to deft's motion to dismiss the remaining claims in the pltf's amended complaint. NW
3-30-90	95	FLD. ONE ENV. ORDERED SEALED & IMPOUNDED PER ORDER OF MAG. GRUBIN DTD:11-26-89. (2 ENVELOPES, NOTHING INDICATED) NW
4-10-90	96	Fld. Pltf's Exhibit Binder submitted in opposition to deft's motion to dismiss remaining claims in the pltf's amended complaint. NW
5-9-90	97	Fld. Thirdparty pltf Affidavit of Henry N. Winslow in support of motion. NW
5-9-90	98	Fld. Thirdparty pltf Reply Memorandum in support of its motion for summary judgment dismissing the remaining claims in pltf's amended complaint. NW
5-29-90	99	Fld. pltf's SUPPLEMENTAL MEMORANDUM in accordance with this court's authorization at oral argument 5-17-90. (received night deposit 5-29-90 at 5:15 pm) JL
7-12-90	100	Filed Transcript of record of proceedings, dated 5-17-90. —
7-12-90	101	Filed Transcript of record of proceedings, dated 5-17-90. —

- 11-15-90 102 Fld ORDER...that the parties appear for a hearing on 11-19-90 at 10 AM at the United States Courthouse at Foley Square, to present evidence pertaining to whether there are genuine issues of fact with respect to the issues pending before it on deft's motion for summary judgment...that plttf's counsel prepare & file with the Court no later than 11-29-90, a memorandum with citations to the record stating for which actions of deft, prior to 7-20-77, it seeks relief and the date upon which plttf first became aware of such actions, and what actions, if any, were taken by the plttf which would constitute reliance by plttf on those actions of deft...SO ORDERED...PATTERSON, J. cmc GQ
- 11-16-90 103 Fld. Memo Endorsed in letter to Judge Patterson dtd 11-15-90 requesting the Court use the time alresdy reserved on 11-19-90 for pre hearing conf application granted counsel should be prepared to present other witnesses then Mr. hershberg on 11-19, 20, 21-90 if possible So Ordered Patterson, J. LF
- 11-26-90 104 Fld. Memo to Clerk pretrial conf. held and concluded 11-19-90, counsel expected to contact the Judge on 11-21-90. LF
- 11/29/90 105 Fld. Plaintiff's Memorandum . . . purs. to the Court's 11/14/90 Order etc. SC
- 12-18-90 106 Fld. Order . . . the parties are reminded to have all witnesses present having personal knowledge of the facts in connection with the two issues before the Court at the Rule 43(e) hearing which was adjourned to 12-20-90 at 2:00 pm. . . So Ordered Patterson, J. LF

- 1-18-91 107 Fld. Memo Endorsed on letter to Judge Patterson dtd 1-17-91 regarding filing of summary judgment motion on 2-15-91 . . . approved So Ordered Patterson, J. LF
- 2-15-91 108 Fld. Post-Hearing Memo of deft John Hancock Mutual Life Insurance Company in further support of its motion for summary judgment. (recv'd in NB 2-15-91 6:02 pm)
- 2-19-91 109 Fld. Post-Hearing Brief. LF
- 3-5-91 110 Transcript of record of proceedings, dated 12/20/90 LF
- 3-5-91 111 Transcript of record of proceedings, dated 12/14/90 LF
- 3-25-91 112 Transcript of record of proceedings, dated 1/8/91 LF
- 7-12-91 113 Fld OPINION AND ORDER # 68325 . . . that deft's motion for summary judgment dismissing plttf's contract and common law claims is granted. This case is hereby ordered closed...SO ORDERED . . . PATTERSON, J. cmc GQ
- 8-6-91 114 Fld ORDER AMENDING OPINION, of the opinion signed and fld on 7-12-91, . . . SO ORDERED PATTERSON, J. CD

- 8-12-91 115 Fld MEMO ENDORSED on letter dated 8-9-91 to Judge Patterson from John B. Berringer In Re: Pltff atty request that the Court clarify when its time to appeal the Court decision runs out...COUNSELS TIME TO FILE AN APPEAL SHOULD RUN FROM 8-6-91. THE COURT REGARDS THE CHANGES MADE IN THE OPINION OF 8-12-91 AS CORRECTIONS OF MISCITATIONS AND A CLARIFICATION OF THE MEANING OF THE FOOTNOTE...SO ORDERED...PATTERSON, J. cmc GQ
- 8-16-91 116 Fld JUDGMENT... that deft's motion for summary judgment dismissing pltff's contract and common law claims is hereby granted... that pltff's complaint is hereby dismissed in its entirety... that deft's counterclaims and its third-party complaint are hereby dismissed as moot. JAMES M. PARKINSON, CLERK. EOD: 8-16-91. GQ
- 8-16-91 — Mailed copy of Judgment & Appeal Forms to all party attys. GQ
- 9-4-91 117 Fld pltff's NOTICE OF APPEAL to the U.S.C.A. for the Second Circuit from the Opinion and Order dated 9-26-89, the order dated 1-4-90, the order dated 1-4-90, the order dated 1-12-90, the order dated 11-15-90, the Opinion and Order dated 7-12-91, the Order Amending Opinion dated 8-6-91 and the Judgment dated 8-16-91. GQ
- 9-5-91 — Mailed copy of Notice of Appeal to: Reboul, MacMurray, Hewitt, Maynard & Kristol. GQ

- 9-5-91 — Forwarded copy of Notice of Appeal to District Judge & copy of Notice of Appeal & docket entries to Court of Appeals. GQ
- 10-18-91 118 Fld NOTICE TO THE DOCKET CLERK that the Original Record on appeal in the above entitled action has been certified and transmitted to the U.S.C.A. for the Second Circuit on 10/18/91. GQ
- 11-12-91 119 Fld STIPULATION AND ORDER... that exhibits admitted in hearings before Judge Patterson on 12/14/90, 12/20/90 and 1/8/91 shall be added to the record on appeal of the captioned action and shall be transmitted to the Court of Appeals... that documents number 41 and 42 on the index to Record on Appeal are misdated. The correct date of these documents is 8/11/87... SO ORDERED... PATTERSON, J. GQ
- 11-12-91 120 Fld NOTICE TO THE DOCKET CLERK that the 1st Supplemental Record on appeal in the above entitled action has been certified and transmitted to the U.S.C.A. for the Seocnd Circuit on 11/12/92.

A TRUE COPY
JAMES M. PARKINSON, Clerk

By: /s/David M. Ortiz
Deputy Clerk

U.S. District Court
Southern District of New York – Civil Database (Foley Square)

CIVIL DOCKET FOR CASE #: 83-CV-5401

Filed: 11/30/92

Chase Manhattan Bank v. John Hancock Mutual

Assigned to: Judge Robert P. Patterson

Judge Robert P. Patterson

Demand: \$0,000

Nature of Suit: 110

Lead Docket: None

Jurisdiction: Diversity

Dkt# in other court: None

Cause: breach of contract

CHASE MANHATTAN BANK, as
Trustee of the Sperry Master Retirement Trust No. 2 (Caption amended 12/5/88: Harris Trust & Savings Bank, as Trustee of the Sperry Retirement Trust No. 2 and its successor, the Unisys Master Trust) Chase Manhattan Bank (remaining as counterdefendant)
plaintiff

Anderson Russell Kill Olick
& Oshinsky
[COR LD NTC]
Anderson Russell Kill Olick
& Oshinsky
666 Third Ave.
New York, NY 10017
212/850-0700

v.

- JOHN HANCOCK MUTUAL LIFE
INSURANCE COMPANY, A MASSACHUSETTS CORPORATION.
defendant

JOHN HANCOCK MUTUAL LIFE
INS. CO.

third-party plaintiff

Reboul Macmurray
[COR LD NTC]
Reboul Macmurray Hewitt
Maynard & Kristol
45 Rockefeller Plaza
New York, NY 10111
212/841-5700

v.

SPERRY CORPORATION

third-party defendant

THE RETIREMENT COMMITTEE OF SPERRY CORPORATION

third-party defendant

Proceedings include all events.

1:83cv5401 Chase Manhattan Bank v. John Hancock Mutual

8/16/91 – Case closed (gq) [Entry date 08/19/91]

11/23/92 – Case reopened (sc) [Entry date 11/30/92]

11/23/92 121 MANDATE OF USCA (certified copy) Re: USDC Judgment dtd. 8/16/91... Ordered, that the judgment of the USDC is affirmed in part, reversed in part and remanded to the said district court for further proceedings etc. CLERK, USCA EOD: 11/25/92 (copy sent to district judge) (sc) [Entry date 11/30/92] [Edit date 12/04/92]

1/4/93 158 Letter (filed as per RPP) to Judge Patterson from Howard G. Kristol dated 12/22/92 in re: request to defer any further proceedings in this case until the Supreme Court has disposed of the petition or until counsel has informed Your Honor of a desire to proceed (emil)

Certified as a true copy on this date 3/23/93

By: Peter N [illegible]

Deputy

Docket Entries, Court of Appeals for the Second Circuit

JA-20

GENERAL DOCKET FOR
Second Circuit Court of Appeals

Filed: 9/6/91

Court of Appeals Docket #: 91-7854
Nsuit: 3110 CONTRACT - Insurance
Harris Trust v. John Hancock Mutual, et al
Appeal from: U.S. District Court SDNY

Case type information:

- 1) Civil
- 2) Private
- 3) none

Lower court information:

District: 0208-01: 83-cv-5401
Trial judge: Robert P. Patterson, Jr.
Date Filed: 7/20/83
Date order/judgment: 8/16/91
Date NOA filed: 9/4/91

Fee status: paid

Prior cases:

None

Current cases:

None

Panel Assignment:

Panel: RJM WF WHT 1705 :CA2 2/11/92 am
Date of decision: 7/30/92

A TRUE COPY

ELAINE B. GOLDSMITH, Clerk

By /s/Carolyn Clark Campbell

Chief Deputy Clerk

Proceedings include all events.

91-7854 Harris Trust v. John Hancock Mutual, et al.

HARRIS TRUST AND SAVINGS BANK, as Trustee for the Sperry Master Retirement Trust # 2
Plaintiff - Appellant

Lawrence Kill, Esq.
212-850-0722
[COR LD NTC ret]
Anderson, Kill, Olick & Oshinsky
666 3rd Ave.
New York, NY 10017

v.

JOHN HANCOCK MUTUAL LIFE INSURANCE CO.

Third-Party-Plaintiff

v.

SPERRY CORPORATION

Third-Party-Defendant

RETIREMENT COMMITTEE OF SPERRY CORPORATION

Third-Party-Defendant

JOHN HANCOCK MUTUAL LIFE INSURANCE CO.

Defendant - Appellee

Howard G. Kristol, Esq.
[COR LD NTC ret]
Reboul, Macmurray,
Hewitt, Maynard & Kristol
45 Rockefeller Plaza
New York, NY 10111

v.

CHASE MANHATTAN BANK, N.A.
Counterclaim-Defendant

Phillip E. Stano, Esq.
202-624-2183
[COR LD NTC ret]
Stephen W. Kraus, Esq.
202-624-2183
[COR LD NTC ret]

AMERICAN COUNCIL OF LIFE INSURANCE

Amicus Curiae

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LYNN MARTIN,
Secretary of Labor
Amicus Curiae

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U.S. Dept. of Labor
Office of the Solicitor
200 Constitution Ave., NW
Washington, DC 20210

Official Caption¹-----
Docket no. 91-7854HARRIS TRUST AND SAVINGS BANK, as Trustee for the
Sperry Master Retirement Trust # 2

Plaintiff-Appellant,

v

JOHN HANCOCK MUTUAL LIFE INSURANCE CO.

Defendant-Appellee,

JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY,

Third-Party-Plaintiff,

v

CHASE MANHATTAN BANK, N.A.,

Counterclaim-Defendant,

and

SPERRY CORPORATION and THE RETIREMENT
COMMITTEE of SPERRY CORPORATION,

Third-Party Defendants.

Authorized Abbreviated Caption²-----
Docket no. 91-7854HARRIS TRUST V JOHN HANCOCK MUTUAL
-----¹ Fed. R. App. P. Rule 12(a) and 32(a).² For use on correspondence and motions only.

2/11/91	Appellee JOHN HANCOCK LIFE INSURANCE CO., letter dated December 10, 1991 re: caption, received. (ono)
9/6/91	Copy of district court docket entries and notice of appeal on behalf of Appellant Harris Trust filed. [91-7854] Form C due on 9/14/91. Form D due on 9/14/91. (com)
9/13/91	Copy of district court order, dated 7/31/91 filed (com)
9/13/91	Copy of district court Judgment, dated 8/16/91 filed. (com)
9/13/91	Appellant Harris Trust Form C filed, with proof of service. [91-7854] Form C deadline satisfied. (com)
9/13/91	Appellant Harris Trust Form D filed, with proof of service. [91-7854] Form D deadline satisfied. (com)
9/30/91	Scheduling order #1 filed. Record on appeal due on 10/23/91. Appellant's brief and appendix due on 10/30/91. Appellee's brief due on 11/29/91. Argument as early as week of 1/6/92. (Pre-Argument Conference scheduled for 10/11/91 at 2:30 pm). (com)
10/11/91	New scheduling order number 2 filed. New record on appeal due date is 11/12/91. New appellant's brief due date is 11/18/91. New appellee's brief due date is 12/18/91. New argument week as early as 1/6/92. (onc)
10/23/91	Record on appeal filed. (Original papers of district court.) Number of volumes: 8 (rea)

11/12/91 First supplemental record on appeal filed. Volumes: one. (onf)

11/18/91 Appellant Harris Trust brief RECEIVED. Problem: incorrect caption.. (onf)

11/18/91 Joint appendix received. Number of volumes: three. Problem: awaiting correction of caption. (onf)

11/19/91 Notice of appearance form on behalf of Lawrence Kill, Esq., received. (Orig. to Calendar) (rea)

11/20/91 Letter received from John B. Berringer, attorney for the appellant, stating that our official caption is not appropriate. (cc: Stanley Bass) (onc)

12/11/91 Letter received from Robert Peak giving his version of what the caption should look like based on the district court briefs. (onf)

12/18/91 Appellee John Hancock Mutual brief RECEIVED. Problem: awaiting filing of appellant's brief when appropriate caption has been decided upon. (onf)

12/19/91 The CAPTION PAGE for this appeal has been AMENDED. (unj)

12/19/91 New party added: American Council of Life Insurance as movant to file brief as amicus curiae in support of appellee. (unj)

12/19/91 Movant American Council of Life Insurance motion to participate as amicus curiae and to file brief as amicus curiae FILED (w/pfs). [241525-2] (unj)

12/19/91 Movant American Council of Life Insurance brief received. Problem: motion pending. (unj)

12/19/91 Movant American Council of Life Insurance addendum to brief RECEIVED. Problem: motion pending (unj)

12/19/91 Appellant Harris Trust brief FILED with proof of service. (onf)

12/19/91 Appellant Harris Trust joint appendix filed w/pfs. Number of volumes: three. (onf)

12/19/91 Appellee John Hancock Mutual brief filed with proof of service. (onf)

12/20/91 Notice of appearance form on behalf of James F. Jorden, Esq., received. (Orig. to Calendar) (rea)

12/30/91 Order FILED GRANTING motion to participate as amicus [241525-1] by Movant Amer Council Life In, endorsed on motion form dated 12/19/91., GRANTING motion to file brief as amicus curiae [241525-2] by Amicus Curiae Amer Council Life In, endorsed on motion form dated 12/19/91. (unv)

12/30/91 Amicus Curiae Amer Council Life In brief filed with proof of service. (unv)

12/30/91 Amicus Curiae American Council Life Insurance Addendum (supplemental brief) to Amicus Curiae brief filed with proof of service. (unv)

1/2/92 Appellant Harris Trust reply brief filed with proof of service. (onf)

1/3/92 Proposed for argument the week of 2/10/92. (cac)

1/15/92 Set for argument on 2/11/92. [91-7854] (cac)

1/15/92 Appellant Harris Trust motion to adjourn oral argument FILED (w/pfs). [248142-1] (onc)

1/22/92 Order FILED DENYING motion adjourn oral argument [248142-1] by Appellant Harris Trust, endorsed on motion dated 1/15/92. (cal)

1/30/92 Appellant Harris Trust motion to reconsider motion for adjournment FILED (w/pfs). [254244-1] (cal)

2/3/92 Order FILED DENYING motion to reconsider motion for adjournment of oral argument [254244-1] by Appellant Harris Trust, endorsed on motion dated 1/30/92. (cal)

2/11/92 Case heard before FEINBERG, TIMBERS, MINER, C.JJ. (TAPE: #128) (caa)

2/12/92 Appellee John Hancock Mutual 28(J) letter received. (cc: Panel) (onc)

2/12/92 Letter sent to : Mashall J. Breger, Esq., Solitor of Labor, U.S. Department of Labor, inviting the Department of Labor to submit an amicus brief. (onc)

2/12/92 Letter sent to : Marshall J. Breger, Esq., Solitor of Labor, U.S. Department of Labor, referring to previous letter and asking that if invitation to submit brief is accepted, the brief should be submitted within 30 days of the receipt of this letter. (onc)

3/5/92 New party added: Lynn Martin, Secretary of Labor as amicus curiae on appeal. (unv)

3/5/92 Amicus Curiae Lynn Martin motion to extend time to file Amicus Curiae Brief FILED (w/pfs). [264419-1] (onc)

3/11/92 Order FILED GRANTING motion for extending time to May 12, 1992 [264419-1] by Amicus Curiae Lynn Martin, endorsed on motion form dated 3/5/92. (onc)

5/12/92 Letter received from Marshall J. Breger, Solicitor of Labor, declining to accept the Court's invitation to file a brief. (onc)

7/30/92 Judgment AFFIRMED IN PART, REVERSED IN PART and REMANDED by published signed opinion filed. (RJM). (ona)

7/30/92 Judgment filed. (ona)

8/13/92 Appellee John Hancock Mutual PETITION FOR REHEARING, petition for rehearing in banc [309114-2] with proof of service filed. (ona)

8/13/92 Amicus Curiae Amer Council Life In motion to file brief as amicus curiae in support of Appellee's petition for rehearing and suggestion for rehearing en banc. FILED (w/pfs). [309353-1] (unv)

8/13/92 Amicus Curaie American Counseil of life Insurance's brief in support of Appellee's petition for rehearing and suggestion for rehearing received. amicus curiae brief received. Problem: awaiting motion disposition. (unv)

8/24/92 Order FILED GRANTING motion to file brief as amicus curiae [309353-1] by Amicus Curiae Amer Council Life In, endorsed on motion form dated 8/13/92. (ona)

8/24/92 Amicus Curiae Amer Council Life In PETITION FOR REHEARING, petition for rehearing in banc [311074-2] with proof of service filed. (ona)

- 9/23/92 Order FILED DENYING petition for REHEARING [311074-1] by Amicus Curiae Amer Council Life In, endorsed on motion dated 8/24/92. , DENYING petition petition for rehearing in banc [311074-2] by Amicus Curiae Amer Council Life In, endorsed on motion dated 8/24/92. , DENYING petition for REHEARING [309114-1] by Appellee by John Hancock Mutual, endorsed on motion dated 8/13/92. , DENYING petition petition for rehearing in banc [309114-2] by Appellee by John Hancock Mutual, endorsed on motion dated 8/13/92. (ona)
- 9/25/92 Appellee John Hancock Mutual motion to stay the mandate FILED (w/pfs). [320727-1] (ona)
- 10/5/92 Order FILED GRANTING motion to stay issuance of mandate, pending filing by movant of a petition for a writ of certiorari and final disposition by the U.S. Supreme Court [320727-1] by Appellee by John Hancock Mutual, endorsed on motion form dated 9/25/92. (ona)
- 11/3/92 Appellee John Hancock Mutual motion for extension of time of stay of mandate FILED (w/pfs). [332267-1] (ona)
- 11/12/92 Order FILED DENYING motion for extended time [332267-1] by Appellee by John Hancock Mutual, endorsed on motion dated 11/3/92. (ona)
- 11/16/92 Judgment MANDATE ISSUED. (cme)
- 12/16/92 Record on appeal RETURNED to lower court. No. of volumes: 8 (ref)
- 12/28/92 Notice of filing petition for writ of certiorari for Appellee John Hancock Mutual dated 12.22.92 filed. Supreme Ct#: 92-1074. (ona)

- 2/8/93 Notice of filing petition for writ of certiorari for Appellant Harris Trust dated 1.21.93 filed. Supreme Ct#: 992-12259. (ona)

Complaint

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
CHASE MANHATTAN BANK, N.A. as	:
Trustee of the Sperry Master Retirement	:
Trust No. 2,	:
	:
Plaintiff,	:
	:
-against-	:
	:
JOHN HANCOCK MUTUAL LIFE	:
INSURANCE COMPANY,	:
	:
Defendant.	:
-----X	

Civil Action
No.

COMPLAINT

Plaintiff, by its attorneys Anderson Russell Kill & Olick, P.C.,
for its complaint herein alleges:

THE PARTIES

1. The plaintiff Chase Manhattan Bank, N.A. ("Chase") is a corporation organized and existing under the laws of the United States and has its principal office in New York, New York. Pursuant to an agreement dated October 1, 1976 and effective May 1, 1978, Chase became and has continued to act as the trustee for the Sperry Master Retirement Trust No. 2 which was established for the benefit of employees of Sperry Corporation and its participating subsidiary companies (plaintiff herein is sometimes referred to as "Sperry Trust" and "Sperry Trust" hereafter shall mean Sperry Corporation before May 1, 1978 and Chase after May 1, 1978). The Sperry Master Retirement Trust No. 2 at all times has been located in the State of New York. Sperry Corporation is organized and existing under the laws of the State of Delaware and has its principal office in New York, New York.

2. Defendant John Hancock Mutual Life Insurance Company ("Hancock") is a Massachusetts corporation having its principal

place of business in Boston, Massachusetts. Hancock is licensed, is doing business and has offices within the State of New York. From at least as early as 1967 through and including 1975, Hancock acted as actuary for Sperry Corporation.

THIS ACTION AND JURISDICTION

3. This action involves breaches of contract and misconduct on the part of Hancock in connection with a group annuity pension contract under which Hancock holds approximately \$120 million as of the date of this complaint to provide retirement benefits to Sperry Corporation employees eligible under the Sperry Retirement Program to receive such benefits ("eligible employees"). A substantial and material portion of such amount has been and is unnecessary to provide such benefits and has been wrongfully accumulated and retained by Hancock to the detriment and damage of Sperry Trust and eligible employees.

4. This action involves citizens of different states and exceeds, exclusive of interest and costs, the sum of ten thousand dollars (\$10,000). Jurisdiction of this Court is based upon 28 U.S.C. § 1332.

FACTUAL BACKGROUND

A. The 1941 Group Annuity Contract

5. In 1941, Sperry Corporation entered into a Group Annuity Contract, No. 50 GAC ("GAC 50"), with Hancock to provide for the purchase of deferred annuities payable to Sperry Corporation employees upon retirement funded by contributions of Sperry Corporation eligible employees and of Sperry Corporation in accordance with rate tables prepared by Hancock and annexed to GAC 50. Effective May 1, 1978, Chase, as Trustee under the Sperry Master Retirement Trust No. 2, was substituted for Sperry Corporation as the GAC 50 contract holder.

B. The 1968 Amendment

6. GAC 50 was amended effective January 1, 1968 (the "1968 Amendment"). The 1968 Amendment was drafted, prepared and submitted to Sperry Trust by Hancock. The 1968 Amendment provided for cancelling deferred annuities purchased for Sperry Corporation employees and placing the resulting funds in a Pension Administration Fund.

7. The Pension Administration Fund was established under the 1968 Amendment to provide funds to pay benefits to Sperry Corporation eligible employees. The amount in the Pension Administration Fund was required to be maintained at a level sufficient to purchase annuities to provide benefits to all Sperry Corporation eligible employees. The amount so required to be in the Pension Administration Fund under the 1968 Amendment was to be not less than an amount determined annually by Hancock. That annual amount was not to be less than the "Liabilities of the Fund."

8. The Liabilities of the Fund to be determined by Hancock each year under the 1968 Amendment were the aggregate of (i) the amount necessary to purchase annuities that had been cancelled on January 1, 1968, (ii) the amount necessary to purchase annuities (in addition to annuities covered by (i)) for eligible employees who had retired during each year after 1967 and (iii) a contingency reserve. Under the 1968 Amendment, the annual amount required to be in the Pension Administration Fund was to equal 100% of the Liabilities of the Fund. The 1968 Amendment also provided for the existence of a Supplemental Fund (known as Separate Investment Account No. 18 from June 30, 1976 to August 1, 1979) at the option of Sperry Trust. In the event such Fund in fact was established and existed, the annual amount required to be in the Pension Administration Fund and the Supplemental Fund was to be 105% of the Liabilities of the Fund.

9. The major component of the Liabilities of the Fund was the amount that would be necessary to purchase annuities. That

amount was determined by Hancock utilizing rate tables which were prepared by Hancock in 1968. These rate tables incorporated interest factors determined solely by Hancock. At the time of Sperry Trust's entry into the 1968 Amendment and thereafter and in determining the rate tables to be used in 1968 and thereafter, Hancock acted for Sperry Trust as an actuary and also utilized its unique expertise and knowledge in the fields of insurance and investment management.

10. Under the 1968 Amendment, in any year the Pension Administration Fund did not equal the Liabilities of the Fund (or 105% thereof if a Supplemental Fund existed) as annually determined solely by Hancock, Sperry Trust would be required to contribute an amount so that the Pension Administration Fund would be at the required level. If Sperry Trust failed to make such a required contribution, Hancock was empowered to terminate GAC 50 and to retain for itself amounts in GAC 50 including amounts in excess of the Liabilities of the Fund, contingency reserve amounts and amounts that would result from Hancock's actual purchase of annuities at costs substantially below the annuities' costs used to calculate the Liabilities of the Fund.

C. The 1977 Amendment

11. Effective August 1, 1977, Sperry Trust and Hancock amended GAC 50 (hereinafter the "1977 Amendment"). As a result of the 1977 Amendment, the Liabilities of the Fund were limited to the amount necessary to purchase annuities cancelled on January 1, 1968 and an amount necessary to purchase annuities in excess of those cancelled on January 1, 1968 for eligible employees who retired between January 1, 1968 and the August 1, 1977 Amendment. As a consequence, the number of employees and their entitlement to retirement benefits under GAC 50 were fixed as to the amount required to be used to calculate the Liabilities of the Fund. The 1977 Amendment also provided a means for Sperry Trust to pay additional benefits through GAC 50 on a current basis to eligible employees by defining into two categories the benefits to be provided under

GAC 50: (a) guaranteed benefits, and (b) non-guaranteed benefits. Guaranteed benefits are benefits under the Sperry Retirement Program ("Sperry Retirement Program" is defined in the 1968 Amendment as "Plan" which term will be used hereafter) covered in the Liabilities of the Fund. Non-guaranteed benefits are all benefits (other than guaranteed benefits) to be paid to retired employees of Sperry Corporation pursuant to the Plan. The 1977 Amendment specifically provided that Sperry Trust could provide non-guaranteed benefits from any monies in the Pension Administration Fund in excess of the amount calculated as the Liabilities of the Fund. At all times since the 1977 Amendment, as Hancock has acknowledged, the Pension Administration Fund has been more than sufficient to cover payments of non-guaranteed benefits designated under the Plan.

D. Hancock Payments of Non-Guaranteed Benefits

12. Pursuant to the 1977 Amendment, Hancock had been paying, on a monthly basis, non-guaranteed benefits from Pension Administration Fund excess funds to retired employees designated under the Plan.

13. On March 24, 1982, the Plan was amended to include within the categories of eligible employees covered by GAC 50, retired employees of the Univac Division of Sperry Corporation.

14. By letter dated April 27, 1982, Hancock was informed that non-guaranteed benefits were to be paid to retired employees of the Univac Division with a Benefit Commencement Date of May 1, 1982.

15. By letter dated May 14, 1982, Hancock refused to pay the non-guaranteed benefits to the retired employees of Sperry Corporation's Univac Division. In the same letter, Hancock agreed to continue the non-guaranteed benefit payments that it had been making prior to May 1982.

16. By letter dated May 24, 1982, Sperry informed Hancock that it considered Hancock's failure to pay the non-guaranteed benefits called for in Sperry's April 27, 1982 letter to Hancock to be a material breach of GAC 50 and again demanded payment of all non-guaranteed benefits.

17. By letter dated May 25, 1982, Sperry demanded payment of non-guaranteed benefits for June 1982.

18. By check dated May 26, 1982, and delivered to Sperry on May 27, 1982, Hancock paid all non-guaranteed benefits for May and June 1982.

19. By letter dated May 27, 1982, Hancock informed Sperry that it would cease making payments of all non-guaranteed benefits, including non-guaranteed benefits that Hancock had been paying since the effective date of the 1977 Amendment.

20. By letter dated June 2, 1982, Sperry demanded that Hancock continue to pay non-guaranteed benefits.

21. By letter dated June 14, 1982, Hancock reiterated its refusal to pay non-guaranteed benefits then or in the future.

22. After June 1982, Hancock has failed to make payments of any non-guaranteed benefits.

23. At all relevant times the excess funds in the Pension Administration Fund have been and continue to be sufficient in amount to provide the non-guaranteed benefits demanded by Sperry Trust which Hancock has refused to pay.

**E. Excess Funds Retained
by Hancock Under GAC 50**

24. The amount of excess funds in the Pension Administration Fund under GAC 50 is dependent upon the proper calculation of the Liabilities of the Fund.

25. The method employed by Hancock each year to determine the Liabilities of the Fund has been to utilize rate tables it established in 1968 as part of the 1968 Amendment. Upon information and belief, Hancock's rate tables use interest rates of between 2-1/2% and 3% and those interest rates have never been changed by Hancock and have been determined by Hancock every year since the 1968 Amendment in Hancock's annual determination of the Liabilities of the Fund.

26. Under the 1968 Amendment, Hancock adjusts the Pension Administration Fund (i) by deducting administrative and operational expenses and (ii) by adding actual net interest earned (less no more than 1%) on assets attributable to the Pension Administration Fund. Hancock refers to the rate basis for its calculation of such net interest as the "case rate."

27. At all times since at least the 1977 Amendment, the Pension Administration Fund (including the annual case rate additions) has been substantially and increasingly greater than the Liabilities of the Fund as annually determined by Hancock with the result that Hancock in contravention of the 1968 and 1977 Amendments has each year continued to accumulate and retain excess funds in the Pension Administration Fund.

28. Hancock has admitted that as of January 1, 1982 there was approximately \$20 million excess in the Pension Administration Fund utilizing the 1968 rate tables' 2-1/2% to 3% interest factor in Hancock's calculation of the Liabilities of the Fund.

29. If Hancock's case rate interest factor (applied by Hancock for actual interest added to the Pension Administration Fund) is applied in determining the Liabilities of the Fund, the excess in the Pension Administration Fund would increase from the \$20 million excess admitted by Hancock to approximately \$60 million.

30. If a current interest rate factor is applied in determining the Liabilities of the Fund, the excess in the Pension Administration Fund would increase from the \$20 million excess admitted by Hancock to approximately \$75 million.

31. Sperry Trust has demanded return of the excess funds in the Pension Administration Fund.

32. Hancock has refused to return the excess funds as demanded by Sperry Trust. During 1982 Hancock had been willing to return some of the excess funds, but only after first imposing numerous conditions, including various charges such as an asset liquidation adjustment and additional risk charges, and then only over a period of five years.

F. Asset Liquidation Adjustment

33. The 1968 Amendment (Article III, Section 9 of GAC 50) provides for the transfer to Sperry Trust of the amount equal to the excess in the Pension Administration Fund over the amount of the Liabilities of the Fund. Under the 1968 Amendment, the transfer is to be the full amount of such excess, except in the limited circumstance set forth in the 1968 Amendment where it would be necessary for Hancock to liquidate investments to provide the excess amount to be transferred. Under the 1968 Amendment, adjustment of the amount to be transferred (either an increase for gains or a decrease for losses) would arise and be applicable only if liquidation of Hancock's investments was necessary and actually occurred to provide the excess amount to be transferred. The adjustment is termed an "Asset Liquidation Adjustment" in the 1968 Amendment. On information and belief, since the 1968 Amendment Hancock each year has had on hand and available amounts sufficient to transfer to Sperry Trust the excess in the Pension Administration Fund without any necessity for Hancock to liquidate investments to provide the excess amount transferrable to Sperry Trust.

34. Hancock has stated that an Asset Liquidation Adjustment is necessary despite the availability of funds to pay transfers, in order to allow Hancock to adjust the values carried on Hancock's books for assets (e.g., face amount of bonds) to actual market values at the time of any transfer of funds from the Pension Administration Fund. This Hancock adjustment, in addition to ignoring the availability of funds to pay transfers,

disregards (i) Hancock assets that matured each year at full book values, (ii) Hancock reinvestment of assets at current interest rates and (iii) Hancock's ability and obligation to transfer excess funds each year to Sperry Trust.

G. Hancock's Confidential and Fiduciary Relationship with Sperry Trust

35. As a result of Hancock's unique expertise and knowledge as an insurance carrier and Hancock's being and having acted as actuary and pension advisor for Sperry Trust, Hancock had and has a confidential and fiduciary relationship with Sperry Trust with duties and obligations to Sperry Trust arising from such relationship with respect to GAC 50 and in particular the 1968 Amendment, the 1977 Amendment, the annual determinations of the Liabilities of the Fund and the existence, amount and use of excess funds in the Pension Administration Fund.

36. Sperry Trust relied upon the representations, disclosures and actions of Hancock in connection with GAC 50.

H. Sperry Trust's Performance of Obligations

37. Sperry Trust has performed all its obligations under GAC 50.

FIRST CAUSE OF ACTION

38. Plaintiff repeats and realleges paragraphs 1 through 37, with the same force and effect as if set forth herein at length.

39. Hancock has breached GAC 50 by failing to pay non-guaranteed benefits and by refusing to pay non-guaranteed benefits in the future.

40. As a result of Hancock's breach of GAC 50, Sperry Trust has been damaged and will continue to be damaged in an amount in excess of \$1,200,000 per month, the exact amount

of the aggregate damage to be determined at trial. Since Hancock's refusal to pay non-guaranteed benefits was and continues to be wrongful, wanton, malicious and fraudulent in violation of the rights and entitlements of plaintiff and its numerous eligible employees, all contrary to public policy, plaintiff is entitled to an award of punitive damages in an amount not less than twice the aggregate damage to be determined at trial.

SECOND CAUSE OF ACTION

41. Plaintiff repeats and realleges paragraphs 1 through 37, and 39 and 40, with the same force and effect as if set forth herein at length.

42. Section 2, Article III of the 1968 Amendment to GAC 50 required Hancock to redetermine each year the Liabilities of the Fund.

43. Section 2, Article III of the 1968 Amendment to GAC 50 also required that the 1968 rate basis and tables be reconsidered annually and be amended from time to time in the application of sound actuarial principles for the annual determination of the Liabilities of the Fund since it provided for Hancock reaching agreement with Sperry Trust with respect to changes in the 1968 rate basis and tables.

44. Hancock was acting as actuary for Sperry Trust under GAC 50 in establishing the 1968 rate basis and tables for determining the Liabilities of the Fund under the 1968 Amendment and thereafter in continuing to apply the 1968 rate basis and tables which caused, without Sperry Trust's knowledge or consent, the growth of excess funds not required for benefits to eligible employees.

45. Hancock has continued to use the 1968 rate basis and tables in breach of its contractual obligations to redetermine annually the Liabilities of the Fund and to reach agreement with Sperry Trust on changing the rate basis and tables upon which the Liabilities of the Fund were to be determined.

46. As a result of the foregoing breach of GAC 50 by Hancock, the amount of the Liabilities of the Fund (and the amount required to be maintained in the Pension Administration Fund) has been miscalculated and grossly overstated by Hancock, to the damage of Sperry Trust in an amount to be determined at trial.

THIRD CAUSE OF ACTION

47. Plaintiff repeats and realleges paragraphs 1 through 37, 39, 40 and 42 through 46, with the same force and effect as if set forth herein at length.

48. Sperry Trust has protested to Hancock its application of the 1968 rate basis and tables in Hancock's determination of the Liabilities of the Fund and has sought agreement with Hancock on the use of a rate basis and tables consistent with sound actuarial principles.

49. Hancock has failed and refused to change the 1968 rate basis and tables consistent with sound actuarial principles and has failed and refused to make any change without Hancock's unilateral imposition of numerous charges and conditions entirely unrelated to the applicability of the 1968 rate basis and tables.

50. As a result of the foregoing, Hancock has breached GAC 50 to the damage of Sperry Trust in an amount to be determined at trial.

FOURTH CAUSE OF ACTION

51. Plaintiff repeats and realleges paragraphs 1 through 37, 39, 40, 42 through 46 and 48 through 50, with the same force and effect as if set forth herein at length.

52. Hancock was engaged by Sperry Trust to act as an actuary, and Hancock did act as Sperry Trust's actuary (and was paid therefor) in connection with GAC 50 including the 1968

Amendment, the 1968 rate basis and tables and the continuing use thereof.

53. As actuary for Sperry Trust, Hancock owed Sperry Trust continuing duties of utmost care and loyalty and continuing exercise of its actuarial expertise in accordance with sound actuarial principles and professional standards required of actuaries.

54. Sperry Trust relied upon Hancock as actuary in connection with the 1968 Amendment and thereafter.

55. At the time of the 1968 Amendment and thereafter, Hancock as actuary breached its duties and obligations to Sperry Trust in failing to apply sound actuarial standards and failing to meet professional standards of conduct and competence applicable to Hancock as Sperry Trust's actuary, including Hancock's failure as an actuary to properly inform, advise and counsel Sperry Trust in 1968 and in each year thereafter with respect to the 1968 Amendment, the 1968 rate basis and tables and related matters. Hancock's conduct as actuary for Sperry Trust constituted professional misconduct and malpractice, to the damage of Sperry Trust in an amount to be determined at trial.

FIFTH CAUSE OF ACTION

56. Plaintiff repeats and realleges paragraphs 1 through 37, 39, 40, 42 through 46, 48 through 50, and 52 through 55, with the same force and effect as if set forth herein at length.

57. In connection with GAC 50, Hancock knowingly was acting as actuary and as an insurance carrier and pension consultant for Sperry Trust with unique knowledge and expertise. As a result, Hancock had a fiduciary and confidential relationship with Sperry Trust.

58. In connection with GAC 50, Hancock violated its fiduciary and confidential obligations to Sperry Trust by, among other

things, improperly retaining and continuing to accumulate and retain excess funds in the Pension Administration Fund and as a result Sperry Trust is entitled to the turn over by Hancock of an amount to be determined at trial.

SIXTH CAUSE OF ACTION

59. Plaintiff repeats and realleges paragraphs 1 through 37, 39, 40, 42 through 46, 48 through 50, 52 through 55 and 57 and 58, with the same force and effect as if set forth herein at length.

60. Hancock has breached its contractual obligations and violated its confidential and fiduciary relationship with Sperry Trust.

61. Future performance of GAC 50 requires that a confidential and fiduciary relationship exist and continue to exist on the part of Hancock with Sperry Trust.

62. As a result of the foregoing, GAC 50 cannot continue and should be declared null and void and of no force and effect and all monies credited by Hancock to the Pension Administration Fund should be returned to Sperry Trust without purchase of annuities, imposition of any asset liquidation adjustment or other charges.

SEVENTH CAUSE OF ACTION

63. Plaintiff repeats and realleges paragraphs 1 through 37, 39, 40, 42 through 46, 48 through 50, 52 through 55, 57, 58 and 60 through 62, with the same force and effect as if set forth herein at length.

64. Hancock concealed from Sperry Trust the consequences arising from the 1968 Amendment and the utilization of the 1968 rate basis and tables.

65. As a result of the foregoing Sperry Trust has been damaged in an amount to be determined at trial.

EIGHTH CAUSE OF ACTION

66. Plaintiff repeats and realleges paragraphs 1 through 37, 39, 40, 42 through 46, 48 through 50, 52 through 55, 57, 58, 60 through 62, 64 and 65, with the same force and effect as if set forth herein at length.

67. Hancock has breached GAC 50 by improperly accumulating and retaining excess funds in the Pension Administration Fund and by refusing to turn over all of such funds to Sperry Trust, to the damage of Sperry Trust in an amount to be determined at trial.

NINTH CAUSE OF ACTION

68. Plaintiff repeats and realleges paragraphs 1 through 37, 39, 40, 42 through 46, 48 through 50, 52 through 55, 57, 58, 60 through 62, 64, 65 and 67, with the same force and effect as if set forth herein at length.

69. Hancock has been and will continue to be unjustly enriched by improperly retaining and continuing to accumulate and retain excess funds in the Pension Administration Fund, to the damage of Sperry Trust in an amount to be determined at trial.

TENTH CAUSE OF ACTION

70. Plaintiff repeats and realleges paragraphs 1 through 37, 39, 40, 42 through 46, 48 through 50, 52 through 55, 57, 58, 60 through 62, 64, 65, 67 and 69, with the same force and effect as if set forth herein at length.

71. Hancock has not returned excess funds in 1968 and each year thereafter and has refused to return excess funds in the Pension Administration Fund to Sperry Trust without imposition of an asset liquidation adjustment arbitrary in amount and in contravention of the 1968 Amendment.

72. As a result of the foregoing, Hancock has breached GAC 50 and Sperry Trust has been damaged in an amount to be determined at trial.

ELEVENTH CAUSE OF ACTION

73. Plaintiff repeats and realleges paragraph 1 through 37, 39, 40, 42 through 46, 48 through 50, 52 through 55, 57, 58, 60 through 62, 64, 65, 67, 69, 71 and 72, with the same force and effect as if set forth herein at length.

74. By reason of Hancock's position as actuary, pension advisor and insurance carrier, with unique knowledge and expertise, and its relationship with Sperry Trust, Hancock presented the 1968 Amendment and the 1966 rate basis and tables to Sperry Trust in a manner precluding meaningful negotiation and opportunity to revise and amend the terms and conditions of the 1968 Amendment. As a result, Hancock foisted upon Sperry Trust inequitable and unconscionable provisions of the 1968 Amendment which are against public policy and inimical to the interests of Sperry Trust and eligible employees.

75. As a result of the foregoing, Sperry Trust has been damaged in an amount to be determined at trial.

TWELFTH CAUSE OF ACTION

76. Plaintiff repeats and realleges paragraphs 1 through 37, 39, 40, 42 through 46, 48 through 50, 52 through 55, 57, 58, 60 through 62, 64, 65, 67, 69, 71, 72, 74 and 75, with the same force and effect as if set forth herein at length.

77. To the extent that an adequate remedy at law is not available to Sperry Trust, the 1968 Amendment should be reformed (i) to require proper annual calculations of the Liabilities of the Fund, (ii) to prevent Hancock's retention and further accumulation and retention of excess funds in the Pension Administration Fund and (iii) to prevent Hancock's imposition of unwarranted asset liquidation adjustments or other charges.

THIRTEENTH CAUSE OF ACTION

78. Plaintiff repeats and realleges paragraphs 1 through 37, 39, 40, 42 through 46, 48 through 50, 52 through 55, 57, 58, 60 through 62, 64, 65, 67, 69, 71, 72, 74, 75 and 77, with the same force and effect as if set forth herein at length.

79. Under GAC 50, including the 1968 Amendment and other amendments thereto, Hancock was and is obligated to act in good faith and deal fairly with Sperry Trust, not subordinate Sperry Trust's interests to its own interests, exercise diligence, good faith and conscientious fidelity in safeguarding Sperry Trust's interests, deal ethically with Sperry Trust, fairly and adequately inform Sperry Trust of the nature and scope of GAC 50, the 1968 Amendment and other amendments, not breach GAC 50, the 1968 Amendment and other amendments and not engage in bad faith practices or conduct.

80. Hancock's breaches of GAC 50, the 1968 Amendment and other amendments and Hancock's wrongful conduct, all as hereinabove alleged, in each case constitute separate bad faith, wrongful, wanton, malicious and fraudulent breaches.

81. As a result of the foregoing, Sperry Trust has been damaged and will continue to suffer damages in an amount to be determined at trial and, in addition to compensatory damages, Sperry Trust is entitled to recover punitive damages from Hancock.

WHEREFORE, Plaintiff demands judgment against Hancock as follows:

I. On the first cause of action:

(A) that Hancock (i) pay all non-guaranteed benefits due and owing as of trial and (ii) pay as punitive damages twice the amount of such non-guaranteed benefits; and

(B) directing Hancock to pay all non-guaranteed benefits designated to be paid under the Plan after trial.

The payment of benefits in accordance with (A) and (B) above to be derived from all funds in the Pension Administration Fund in excess of the Liabilities of the Fund to be calculated (1) utilizing rate tables consistent with and in accordance with sound actuarial principles; or (2) utilizing the case rate used by Hancock for the Pension Administration Fund; or (3) utilizing the 1968 Amendment Hancock rate tables.

II. On each of the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth and thirteenth causes of action, that Hancock:

(A) transfer and payover to Sperry Trust all funds in the Pension Administration Fund as of the trial; or in the alternative,

(B) transfer and payover to Sperry Trust all funds in the Pension Administration Fund in excess of the Liabilities of the Fund as of the trial, such Liabilities of the Fund to be calculated (1) utilizing rate tables consistent with and in accordance with sound actuarial principles, or, in the alternative (2) utilizing the case rate used by Hancock for the Pension Administration Fund.

The transfer and payment in accordance with (A) or (B) above to be with no reduction or diminution in amount for asset liquidation adjustments or any other charges.

III. On each of the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth and thirteenth causes of action, that Hancock pay to Sperry Trust damages in an amount to be determined at trial.

IV. On the Twelfth Cause of Action, that GAC 50 and the 1968 Amendment be reformed with provisions (i) to require proper annual calculations of the Liabilities of the Fund, (ii) to prevent the retention, and further accumulation and retention, by Hancock of excess funds in the Pension Administration Fund and (iii) to prevent the imposition by Hancock of unwarranted asset liquidation adjustments or other charges.

V. On the Thirteenth Cause of Action, that Hancock pay Sperry Trust (in addition to the compensatory damages and other relief previously demanded) as punitive damages an amount equal to not less than the amount presently in the Pension Administration Fund.

VI. On each of all of the Causes of Action, that Hancock pay Sperry Trust interest, and costs and disbursements including attorneys' fees.

VII. Such further and other relief as this Court deems just and proper.

Dated: New York, New York
July 20, 1983

ANDERSON RUSSELL KILL & OLICK, P.C.

By /s/ Lawrence Kill

Lawrence Kill

By /s/ Richard W Collins

Richard W. Collins

Members of the Firm
Attorneys for Plaintiff
666 Third Avenue
New York, New York 10017
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Amended Complaint

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
CHASE MANHATTAN BANK, N.A. as :	
Trustee of the Sperry Master :	
Retirement Trust No. 2, :	Civil Action No.
Plaintiff, :	
-against- :	Docket No.
JOHN HANCOCK MUTUAL LIFE :	83 Civ.5401
INSURANCE COMPANY, :	(JFK)
Defendant. :	AMENDED
	COMPLAINT
-----X	

Plaintiff, by its attorneys Anderson Russell Kill & Olick, P.C.,
for its complaint herein alleges:

THE PARTIES

1. The plaintiff Chase Manhattan Bank, N.A. ("Chase") is a corporation organized and existing under the laws of the United States and has its principal office in New York, New York. Pursuant to an agreement dated October 1, 1976 and effective May 1, 1978, Chase became and has continued to act as the trustee for the Sperry Master Retirement Trust No. 2 which was established for the benefit of employees of Sperry Corporation and its participating subsidiary companies (plaintiff herein is sometimes referred to as "Sperry Trust" and "Sperry Trust" hereafter shall mean Sperry Corporation before May 1, 1978 and Chase after May 1, 1978). The Sperry Master Retirement Trust No. 2 at all times has been located in the State of New York. Sperry Corporation is organized and existing under the laws of the State of Delaware and has its principal office in New York, New York.

2. Defendant John Hancock Mutual Life Insurance Company ("Hancock") is a Massachusetts corporation having its principal place of business in Boston, Massachusetts. Hancock is licensed,

is doing business and has offices within the State of New York. Hancock has acted and continues to act in respect of matters in issue in this complaint as a pension expert, pension advisor, pension designer, insurance carrier, investment manager and advisor, actuary, party in interest and fiduciary.

THIS ACTION AND JURISDICTION

3. This action involves breaches by Hancock of its duties and obligations as a party in interest and a fiduciary under the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1001, et seq. ("ERISA"), and breaches of contract and misconduct on the part of Hancock in connection with a group annuity pension contract under which Hancock holds approximately \$120 million as of the date of the complaint herein to provide retirement benefits to Sperry Corporation employees eligible under the Sperry Retirement Program to receive such benefits ("eligible employees"). A substantial and material portion of such amount has been and is unnecessary to provide such benefits and has been wrongfully accumulated and retained by Hancock to the detriment and damage of Sperry Trust, the Sperry Retirement Program and eligible employees.

4. This action involves citizens of different states and exceeds, exclusive of interest and costs, the sum of ten thousand dollars (\$10,000). Jurisdiction of this Court is based upon 28 U.S.C. § 1332. This action also involves breaches, violations and failures by Hancock in violation of ERISA, and jurisdiction is based upon 28 U.S.C. § 1331 and 29 U.S.C. § 1132.

FACTUAL BACKGROUND

A. The 1941 Group Annuity Contract

5. In 1941, Sperry Corporation entered into a Group Annuity Contract, No. 50 GAC ("GAC 50"), with Hancock to provide for the purchase of deferred annuities payable to Sperry Corporation employees upon retirement funded by contributions of Sperry Corporation eligible employees and of Sperry

Corporation in accordance with rate tables prepared by Hancock and annexed to GAC 50. Effective May 1, 1978, Chase, as Trustee under the Sperry Master Retirement Trust No. 2, was substituted for Sperry Corporation as the GAC 50 contract holder.

B. The 1968 Amendment

6. GAC 50 was amended effective January 1, 1968 (the "1968 Amendment"). The 1968 Amendment was drafted, prepared and submitted to Sperry Trust by Hancock. The 1968 Amendment provided for cancelling deferred annuities purchased for Sperry Corporation employees and placing the resulting funds in a Pension Administration Fund.

7. The Pension Administration Fund was established under the 1968 Amendment to provide funds to pay benefits to eligible employees of the Sperry Retirement Program ("Sperry Retirement Program" is defined in the 1968 Amendment as "Plan" which term will be used hereafter). The amount in the Pension Administration Fund was required to be maintained at a level sufficient to purchase annuities to provide benefits to all Sperry Corporation eligible employees. The amount so required to be in the Pension Administration Fund under the 1968 Amendment was to be not less than an amount determined annually by Hancock. That annual amount was not to be less than the "Liabilities of the Fund."

8. The Liabilities of the Fund to be determined by Hancock each year under the 1968 Amendment were the aggregate of (i) the amount necessary to purchase annuities that had been cancelled on January 1, 1968, (ii) the amount necessary to purchase annuities (in addition to annuities covered by (i)) for eligible employees who had retired during each year after 1967 and (iii) a contingency reserve. Under the 1968 Amendment, the annual amount required to be in the Pension Administration Fund was to equal 100% of the Liabilities of the Fund. The 1968 Amendment also provided for the existence of a Supplemental Fund (known as Separate Investment Account No. 18 from June

30, 1976 to August 1, 1979) at the option of Sperry Trust. In the event such Fund in fact was established and existed, the annual amount required to be in the Pension Administration Fund and the Supplemental Fund was to be 105 % of the Liabilities of the Fund.

9. The major component of the Liabilities of the Fund was the amount that would be necessary to purchase annuities. That amount was determined by Hancock utilizing rate tables which were prepared by Hancock in 1968. These rate tables incorporated interest factors determined solely by Hancock. At the time of Sperry Trust's entry into the 1968 Amendment and thereafter and in determining the rate tables to be used in 1968 and thereafter, Hancock acted for Sperry Trust as a fiduciary and an actuary and also utilized its unique expertise and knowledge as pension expert, pension advisor, pension designer, insurance carrier and investment manager.

10. Under the 1968 Amendment, in any year the Pension Administration Fund did not equal the Liabilities of the Fund (or 105 % thereof if a Supplemental Fund existed) as annually determined solely by Hancock, Sperry Trust would be required to contribute an amount so that the Pension Administration Fund would be at the required level. If Sperry Trust failed to make such a required contribution, Hancock was empowered to terminate GAC 50 and to retain for itself amounts in GAC 50 including amounts in excess of the Liabilities of the Fund, contingency reserve amounts and amounts that would result from Hancock's actual purchase of annuities at costs substantially below the annuities' costs used to calculate the Liabilities of the Fund.

C. The 1977 Amendment

11. Effective August 1, 1977, Sperry Trust and Hancock amended GAC 50 (hereinafter the "1977 Amendment"). As a result of the 1977 Amendment, the Liabilities of the Fund were limited to the amount necessary to purchase annuities cancelled

on January 1, 1968 and an amount necessary to purchase annuities in excess of those cancelled on January 1, 1968 for eligible employees who retired between January 1, 1968 and the August 1, 1977 Amendment. As a consequence, the number of employees and their entitlement to retirement benefits under GAC 50 were fixed as to the amount required to be used to calculate the Liabilities of the Fund. The 1977 Amendment also provided a means for Sperry Trust to pay additional benefits through GAC 50 on a current basis to eligible employees by defining into two categories the benefits to be provided under GAC 50: (a) guaranteed benefits, and (b) non-guaranteed benefits. Guaranteed benefits are benefits under the Plan covered in the Liabilities of the Fund. Non-guaranteed benefits are all benefits (other than guaranteed benefits) to be paid to retired employees of Sperry Corporation pursuant to the Plan. The 1977 Amendment specifically provided that Sperry Trust could provide non-guaranteed benefits from any monies in the Pension Administration Fund in excess of the amount calculated as the Liabilities of the Fund. At all times since the 1977 Amendment, as Hancock has acknowledged, the Pension Administration Fund has been more than sufficient to cover payments of non-guaranteed benefits designated under the Plan.

D. Hancock Payments of Non-guaranteed Benefits

12. Pursuant to the 1977 Amendment, Hancock had been paying, on a monthly basis, non-guaranteed benefits from Pension Administration Fund excess funds to retired employees designated under the Plan.

13. On March 24, 1982, the Plan was amended to include within the categories of eligible employees covered by GAC 50, retired employees of the Univac Division of Sperry Corporation.

14. By letter dated April 27, 1982, Hancock was informed that non-guaranteed benefits were to be paid to retired employees of the Univac Division with a Benefit Commencement Date of May 1, 1982.

15. By letter dated May 14, 1982, Hancock refused to pay the non-guaranteed benefits to the retired employees of Sperry Corporation's Univac Division. In the same letter, Hancock agreed to continue the non-guaranteed benefit payments that it had been making prior to May 1982.

16. By letter dated May 24, 1982, Sperry informed Hancock that it considered Hancock's failure to pay the non-guaranteed benefits called for in Sperry's April 27, 1982 letter to Hancock to be a material breach of GAC 50 and again demanded payment of all non-guaranteed benefits.

17. By letter dated May 25, 1982, Sperry demanded payment of non-guaranteed benefits for June 1982.

18. By check dated May 26, 1982, and delivered to Sperry on May 27, 1982, Hancock paid all non-guaranteed benefits for May and June 1982.

19. By letter dated May 27, 1982, Hancock informed Sperry that it would cease making payments of all non-guaranteed benefits, including non-guaranteed benefits that Hancock had been paying since the effective date of the 1977 Amendment.

20. By letter dated June 2, 1982, Sperry demanded that Hancock continue to pay non-guaranteed benefits.

21. By letter dated June 14, 1982, Hancock reiterated its refusal to pay non-guaranteed benefits then or in the future.

22. After June 1982, Hancock has failed to make payments of any non-guaranteed benefits.

23. At all relevant times the excess funds in the Pension Administration Fund have been and continue to be sufficient in amount to provide the non-guaranteed benefits demanded by Sperry Trust which Hancock has refused to pay.

E. Excess Funds Retained by Hancock Under GAC 50

24. The amount of excess funds in the Pension Administration Fund under GAC 50 is dependent upon the proper calculation of the Liabilities of the Fund.

25. The method employed by Hancock each year to determine the Liabilities of the Fund has been to utilize rate tables it established in 1968 as part of the 1968 Amendment. Upon information and belief, Hancock's rate tables use interest rates of between 2-1/2% and 3% and those interest rates have never been changed by Hancock and have been determined by Hancock every year since the 1968 Amendment in Hancock's annual determination of the Liabilities of the Fund.

26. Under the 1968 Amendment, Hancock adjusts the Pension Administration Fund (i) by deducting administrative and operational expenses and (ii) by adding actual net interest earned (less no more than 1%) on assets attributable to the Pension Administration Fund. Hancock refers to the rate basis for its calculation of such net interest as the "case rate."

27. At all times since at least the 1977 Amendment, the Pension Administration Fund (including the annual case rate additions) has been substantially and increasingly greater than the Liabilities of the Fund as annually determined by Hancock with the result that Hancock in contravention of the 1968 and 1977 Amendments and its fiduciary obligations has each year continued to accumulate and retain excess funds in the Pension Administration Fund.

28. Hancock has admitted that as of January 1, 1982 there was approximately \$20 million excess in the Pension Administration Fund utilizing the 1968 rate tables' 2-1/2% to 3% interest factor in Hancock's calculation of the Liabilities of the Fund.

29. If Hancock's case rate interest factor (applied by Hancock for actual interest added to the Pension Administration Fund) is applied in determining the Liabilities of the Fund, the

excess in the Pension Administration Fund would increase from the \$20 million excess admitted by Hancock to approximately \$60 million.

30. If a current interest rate factor is applied in determining the Liabilities of the Fund, the excess in the Pension Administration Fund would increase from the \$20 million excess admitted by Hancock to approximately \$75 million.

31. Sperry Trust has demanded return of the excess funds in the Pension Administration Fund.

32. Hancock has refused to return the excess funds as demanded by Sperry Trust. During 1982 Hancock had been willing to return some of the excess funds, but only after first imposing numerous conditions, including various charges such as an asset liquidation adjustment and additional risk charges, and then only over a period of five years.

F. Asset Liquidation Adjustment

33. The 1968 Amendment (Article III, Section 9 of GAC 50) provides for the transfer to Sperry Trust of the amount equal to the excess in the Pension Administration Fund over the amount of the Liabilities of the Fund. Under the 1968 Amendment, the transfer is to be the full amount of such excess, except in the limited circumstance set forth in the 1968 Amendment where it would be necessary for Hancock to liquidate investments to provide the excess amount to be transferred. Under the 1968 Amendment, adjustment of the amount to be transferred (either an increase for gains or a decrease for losses) would arise and be applicable only if liquidation of Hancock's investments was necessary and actually occurred to provide the excess amount to be transferred. The adjustment is termed an "Asset Liquidation Adjustment" in the 1968 Amendment. On information and belief, since the 1968 Amendment Hancock each year has had on hand and available amounts sufficient to transfer to Sperry Trust the excess in the Pension Administration Fund without any necessity for Hancock to liquidate investments to provide the excess amount transferrable to Sperry Trust.

34. Hancock has stated that an asset liquidation adjustment is necessary despite the availability of funds to pay transfers, in order to allow Hancock to adjust the values carried on Hancock's books for assets (e.g., face amount of bonds) to actual market values at the time of any transfer of funds from the Pension Administration Fund. This Hancock adjustment, in addition to ignoring the availability of funds to pay transfers, disregards (i) Hancock assets that matured each year at full book values, (ii) Hancock reinvestment of assets at current interest rates and (iii) Hancock's ability and obligation to transfer excess funds each year to Sperry Trust.

G. Hancock's Confidential and Fiduciary Relationship with Sperry Trust

35. As a result of Hancock's unique expertise and knowledge as a pension expert, pension advisor, pension designer, insurance carrier and investment manager, and Hancock's being and having acted as a party in interest, fiduciary and actuary for Sperry Trust, Hancock had and has a confidential and fiduciary relationship with Sperry Trust with duties and obligations to Sperry Trust arising from such relationship with respect to GAC 50 and in particular the 1968 Amendment, the 1977 Amendment, the annual determinations of the Liabilities of the Fund and the existence, amount and use of excess funds in the Pension Administration Fund.

36. Sperry Trust relied upon the representations, disclosures and actions of Hancock in connection with GAC 50.

H. Sperry Trust's Performance of Obligations

37. Sperry Trust has performed all its obligations under GAC 50.

FIRST CAUSE OF ACTION

38. Plaintiff repeats and realleges paragraphs 1 through 37, with the same force and effect as if set forth herein at length.

39. Hancock has been and continues to be a fiduciary with respect to GAC 50 under and within the terms of 29 U.S.C. §1002(21)(A) and a party in interest under and within the terms of 29 U.S.C. §1002(14), in that (i) Hancock continuously has exercised authority or control respecting management and disposition of Plan assets, (ii) Hancock continuously has rendered investment advice in exchange for remuneration with respect to Plan assets, and continuously has had authority or responsibility to render investment advice, and (iii) Hancock continuously has provided services with respect to the Plan.

40. Hancock continuously has acted to the detriment of the Plan, Plan assets and eligible employees, by failing to discharge its duties as a party in interest and its fiduciary duties mandated by 29 U.S.C. §1104(a)(2), and by engaging in acts and practices constituting transactions prohibited by 29 U.S.C. §1106(b), in that Hancock continuously (i) has failed to act for the exclusive purpose of providing benefits to the Plan's eligible employees and by imposing unreasonable charges, (ii) has failed to act with the care, skill, prudence and diligence that a prudent person acting as a fiduciary familiar with Plan matters would use in conducting an enterprise of a like character and with like aims, and (iii) has improperly dealt with Plan assets in its own interest or for its own account, and has overcompensated itself, by reason of:

(a) Hancock's failure and refusal to pay non-guaranteed benefits to eligible employees;

(b) Hancock's failure and refusal to amend the 1968 rate basis and tables to reflect changing conditions and to revise the terms of the 1968 Amendment to remove inequitable and unconscionable provisions detrimental to the Plan, Plan assets and eligible employees;

(c) Hancock's failure and refusal to apply sound actuarial principles for the annual determination of the Liabilities of the Fund;

(d) Hancock's gross miscalculation and overstatement of the Liabilities of the Fund;

(e) Hancock's improper accumulation and retention of funds in the Pension Administration Fund in excess of (x) the overstated Liabilities of the Fund, (y) the Liabilities of the Fund utilizing Hancock's case rate interest factor, and (z) the Liabilities of the Fund utilizing a current interest rate factor;

(f) Hancock's failure and refusal to return excess funds;

(g) Hancock's improper attempts to impose upon the return of any excess funds numerous conditions including various improper charges such as an asset liquidation adjustment, alleged risk charges and payment over time;

(h) Hancock's arbitrary calculation and determination of the amount of any asset liquidation adjustment;

(i) Hancock's failure to disclose and its concealment of the adverse consequences of its policies and practices including its establishment and continued use of the 1968 rate basis and tables;

(j) Hancock's failure and refusal to act with utmost care and loyalty and to apply sound actuarial principles and professional standards required of Hancock as actuary;

(k) Hancock's investment practices with respect to the Pension Administration Fund detrimental the interests of the Plan, Plan assets and eligible employees;

(l) Hancock's failure and refusal to utilize the declining balance method to calculate investment

status and results attributable to the Pension Administration Fund;

(m) Hancock's failure and refusal, in violation of its duties and obligations under GAC 50 as amended and under ERISA, to properly calculate and determine divisible surplus and to provide immediate participation and the proper amount of dividends;

(n) Hancock's improper practices and policies in arbitrarily establishing classes of contracts and in discriminatorily administering GAC 50 as a part of a class of contracts;

(o) Hancock's violations of its duties and obligations as pension expert, pension advisor, pension plan designer, actuary, insurance carrier and investment manager in respect of Hancock's breaches, violations and failures to discharge its duties under ERISA, as aforesaid; and

(p) Hancock's failure and refusal to return all funds comprising the Pension Administration Fund after demand for such return was made upon Hancock and such demand was based upon Hancock's breaches, violations and failures to discharge its duties under ERISA.

41. As a result of Hancock's breaches, violations and failures to discharge its duties under ERISA, as aforesaid, Sperry Trust on its behalf and on behalf of the Plan and eligible employees has been damaged in an amount to be determined at trial and pursuant to 29 U.S.C. § 1109 Sperry Trust is entitled to the recovery of damages and attorneys' fees, and to such equitable or remedial relief as this Court deems appropriate.

SECOND CAUSE OF ACTION

42. Plaintiff repeats and realleges paragraphs 1 through 37 and 39 through 41, with the same force and effect as if set forth herein at length.

43. Hancock has breached GAC 50 by failing to pay non-guaranteed benefits and by refusing to pay non-guaranteed benefits in the future.

44. As a result of Hancock's breach of GAC 50, Sperry Trust has been damaged and will continue to be damaged in an amount in excess of \$1,200,000 per month, the exact amount of the aggregate damage to be determined at trial. Since Hancock's refusal to pay non-guaranteed benefits was and continues to be wrongful, wanton, malicious and fraudulent in violation of the rights and entitlements of plaintiff and its numerous eligible employees, all contrary to public policy, plaintiff is entitled to an award of punitive damages in an amount not less than twice the aggregate damage to be determined at trial.

THIRD CAUSE OF ACTION

45. Plaintiff repeats and realleges paragraphs 1 through 37, 39 through 41 and 43 and 44, with the same force and effect as if set forth herein at length.

46. Section 2, Article III of the 1968 Amendment to GAC 50 required Hancock to redetermine each year the Liabilities of the Fund.

47. Section 2, Article III of the 1968 Amendment to GAC 50 also required that the 1968 rate basis and tables be reconsidered annually and be amended from time to time in the application of sound actuarial principles for the annual determination of the Liabilities of the Fund since it provided for Hancock reaching agreement with Sperry Trust with respect to changes in the 1968 rate basis and tables.

48. Hancock was acting as pension expert, pension advisor, pension designer, insurance carrier, investment manager, actuary, party in interest and fiduciary for Sperry Trust, the Plan, Plan assets and eligible employees in establishing the 1968 rate basis and tables for determining the Liabilities of the Fund under the 1968 Amendment and thereafter in continuing to apply the

1968 rate basis and tables which caused, without Sperry Trust's knowledge or consent, the growth of excess funds not required for benefits to eligible employees.

49. Hancock has continued to use the 1968 rate basis and tables in breach of its contractual obligations to redetermine annually the Liabilities of the Fund and to reach agreement with Sperry Trust on changing the rate basis and tables upon which the Liabilities of the Fund were to be determined.

50. As a result of the foregoing breach of GAC 50 by Hancock, the amount of the Liabilities of the Fund (and the amount required to be maintained in the Pension Administration Fund) has been miscalculated and grossly overstated by Hancock, to the damage of Sperry Trust in an amount to be determined at trial.

FOURTH CAUSE OF ACTION

51. Plaintiff repeats and realleges paragraphs 1 through 37, 39 through 41, 43 and 44, 46 through 50, with the same force and effect as if set forth herein at length.

52. Sperry Trust has protested to Hancock its application of the 1968 rate basis and tables in Hancock's determination of the Liabilities of the Fund and has sought agreement with Hancock on the use of a rate basis and tables consistent with sound actuarial principles.

53. Hancock has failed and refused to change the 1968 rate basis and tables consistent with sound actuarial principles and has failed and refused to make any change without Hancock's unilateral imposition of numerous charges and conditions entirely unrelated to the applicability of the 1968 rate basis and tables.

54. As a result of the foregoing, Hancock has breached GAC 50 to the damage of Sperry Trust in an amount to be determined at trial.

FIFTH CAUSE OF ACTION

55. Plaintiff repeats and realleges paragraphs 1 through 37, 39 through 41, 43 and 44, 46 through 50 and 52 through 54, with the same force and effect as if set forth herein at length.

56. Hancock was engaged by Sperry Trust to act as actuary, and Hancock did act as Sperry Trust's actuary (and was paid therefor) in connection with GAC 50 including the 1968 Amendment, the 1968 rate basis and tables and the continuing use thereof.

57. As actuary for Sperry Trust, Hancock owed Sperry Trust continuing duties of utmost care and loyalty and continuing exercise of its actuarial expertise in accordance with sound actuarial principles and professional standards required of actuaries.

58. Sperry Trust relied upon Hancock as actuary in connection with the 1968 Amendment and thereafter.

59. At the time of the 1968 Amendment and thereafter, Hancock as actuary breached its duties and obligations to Sperry Trust in failing to apply sound actuarial standards and failing to meet professional standards of conduct and competence applicable to Hancock as Sperry Trust's actuary, including Hancock's failure as an actuary to properly inform, advise and counsel Sperry Trust in 1968 and in each year thereafter with respect to the 1968 Amendment, the 1968 rate basis and tables and related matters. Hancock's conduct as actuary for Sperry Trust constituted professional misconduct and malpractice, to the damage of Sperry Trust in an amount to be determined at trial.

SIXTH CAUSE OF ACTION

60. Plaintiff repeats and realleges paragraphs 1 through 37, 39 through 41, 43 and 44, 46 through 50, 52 through 54, and 56 through 59, with the same force and effect as if set forth herein at length.

61. In connection with GAC 50, Hancock knowingly was acting as pension expert, pension advisor, pension designer, insurance carrier, investment manager, actuary, and party in interest for Sperry Trust with unique knowledge and expertise. As a result, Hancock had a fiduciary and confidential relationship with Sperry Trust.

62. In connection with GAC 50, Hancock violated its fiduciary and confidential obligations to Sperry Trust by, among other things, improperly retaining and continuing to accumulate and retain excess funds in the Pension Administration Fund and as a result Sperry Trust is entitled to the turn over by Hancock of an amount to be determined at trial.

SEVENTH CAUSE OF ACTION

63. Plaintiff repeats and realleges paragraphs 1 through 37, 39 through 41, 43 and 44, 46 through 50, 52 through 54, 56 through 59, 61 and 62, with the same force and effect as if set forth herein at length.

64. Hancock has breached its contractual obligations and violated its confidential and fiduciary relationship with Sperry Trust.

65. Future performance of GAC 50 requires that a confidential and fiduciary relationship exist and continue to exist on the part of Hancock with Sperry Trust.

66. As a result of the foregoing, GAC 50 cannot continue and should be declared null and void and of no force and effect and all monies credited by Hancock to the Pension Administration Fund should be returned to Sperry Trust without purchase of annuities, imposition of any asset liquidation adjustment or other charges.

EIGHTH CAUSE OF ACTION

67. Plaintiff repeats and realleges paragraphs 1 through 37, 39 through 41, 43 and 44, 46 through 50, 52 through 54, 56

through 59, 61 and 62, and 64 through 66, with the same force and effect as if set forth herein at length.

68. Hancock concealed from Sperry Trust the consequences arising from the 1968 Amendment and the utilization of the 1968 rate basis and tables.

69. As a result of the foregoing Sperry Trust has been damaged in an amount to be determined at trial.

NINTH CAUSE OF ACTION

70. Plaintiff repeats and realleges paragraphs 1 through 37, 39 through 41, 43 and 44, 46 through 50, 52 through 54, 56 through 59, 61 and 62, 64 through 66, 68 and 69, with the same force and effect as if set forth herein at length.

71. Hancock has breached GAC 50 by improperly accumulating and retaining excess funds in the Pension Administration Fund and by refusing to turn over all of such funds to Sperry Trust, to the damage of Sperry Trust in an amount to be determined at trial.

TENTH CAUSE OF ACTION

72. Plaintiff repeats and realleges paragraphs 1 through 37, 39 through 41, 43 and 44, 46 through 50, 52 through 54, 56 through 59, 61 and 62, 64 through 66, 68 and 69, and 71, with the same force and effect as if set forth herein at length.

73. Hancock has been and will continue to be unjustly enriched by improperly retaining and continuing to accumulate and retain excess funds in the Pension Administration Fund, to the damage of Sperry Trust in an amount to be determined at trial.

ELEVENTH CAUSE OF ACTION

74. Plaintiff repeats and realleges paragraphs 1 through 37, 39 through 41, 43 and 44, 46 through 50, 52 through 54, 56

through 59, 61 and 62, 64 through 66, 68 and 69, 71, and 73, with the same force and effect as if set forth herein at length.

75. Hancock has not returned excess funds in 1968 and each year thereafter and has refused to return excess funds in the Pension Administration Fund to Sperry Trust without imposition of an asset liquidation adjustment arbitrary in amount and in contravention of the 1968 Amendment.

76. As a result of the foregoing, Hancock has breached GAC 50 and Sperry Trust has been damaged in an amount to be determined at trial.

TWELFTH CAUSE OF ACTION

77. Plaintiff repeats and realleges paragraph 1 through 37, 39 through 41, 43 and 44, 46 through 50, 52 through 54, 56 through 59, 61 and 62, 64 through 66, 68 and 69, 71, 73, 75 and 76 with the same force and effect as if set forth herein at length.

78. By reason of Hancock's position as pension expert, pension advisor, pension designer, insurance carrier, investment manager, actuary, party in interest and fiduciary, with unique knowledge and expertise, and its relationship with Sperry Trust, Hancock presented the 1968 Amendment and the 1968 rate basis and tables to Sperry Trust in a manner precluding meaningful negotiation and opportunity to revise and amend the terms and conditions of the 1968 Amendment. As a result, Hancock foisted upon Sperry Trust and has continued to use inequitable and unconscionable provisions of the 1968 Amendment which are against public policy and inimical to the interests of Sperry Trust and eligible employees.

79. As a result of the foregoing, Sperry Trust has been damaged in an amount to be determined at trial.

THIRTEENTH CAUSE OF ACTION

80. Plaintiff repeats and realleges paragraphs 1 through 37, 39 through 41, 43 and 44, 46 through 50, 52 through 54, 56 through 59, 61 and 62, 64 through 66, 68 and 69, 71 and 73, 75 and 76, 78 and 79, with the same force and effect as if set forth herein at length.

81. To the extent that an adequate remedy at law is not available to Sperry Trust, the 1968 Amendment should be reformed (i) to require proper annual calculations of the Liabilities of the Fund, (ii) to prevent Hancock's retention and further accumulation and retention of excess funds in the Pension Administration Fund and (iii) to prevent Hancock's imposition of unwarranted asset liquidation adjustments or other charges.

FOURTEENTH CAUSE OF ACTION

82. Plaintiff repeats and realleges paragraphs 1 through 37, 39 through 41, 43 and 44, 46 through 50, 52 through 54, 56 through 59, 61 and 62, 64 through 66, 68 and 69, 71 and 73, 75 and 76, 78 and 79, and 81, with the same force and effect as if set forth herein at length.

83. Under GAC 50, including the 1968 Amendment and other amendments hereto, Hancock was and is obligated to act in good faith and deal fairly with Sperry Trust, not subordinate Sperry Trust's interests to its own interests, exercise diligence, good faith and conscientious fidelity in safeguarding Sperry Trust's interests, deal ethically with Sperry Trust, fairly and adequately inform Sperry Trust of the nature and scope of GAC 50, the 1968 Amendment and other amendments, not breach GAC 50, the 1968 Amendment and other amendments and not engage in bad faith practices or conduct.

84. Hancock's breaches of GAC 50, the 1968 Amendment and other amendments and Hancock's wrongful conduct, all as

hereinabove alleged, in each case constitute separate bad faith, wrongful, wanton, malicious and fraudulent breaches.

85. As a result of the foregoing, Sperry Trust has been damaged and will continue to suffer damages in an amount to be determined at trial and, in addition to compensatory damages, Sperry Trust is entitled to recover punitive damages from Hancock.

WHEREFORE, Plaintiff demands judgment against Hancock as follows:

I. On the first cause of action:

(A) that Hancock pay to Sperry Trust damages, including but not limited to payment of all non-guaranteed benefits withheld by Hancock and return of all excess funds withheld by Hancock without reduction or diminution in amount for asset liquidation adjustments or any other charges, in an amount to be determined at trial;

(B) that Hancock pay to Sperry Trust all losses to Sperry Trust and the Plan resulting from each of Hancock's breaches of its responsibilities, obligations or duties imposed upon Hancock as a party in interest and a fiduciary under ERISA, in an amount to be determined at trial;

(C) that Hancock pay to Sperry Trust all Hancock profits made through its use of Plan assets, in an amount to be determined at trial;

(D) that Hancock transfer and pay over to Sperry Trust all funds in the Pension Administration Fund without the purchase of annuities and without reduction or diminution in amount for asset liquidation adjustments or any other charges;

(E) that GAC 50 and the 1968 Amendment be reformed to include, without limitation, provisions (i) to require proper annual calculations of the Liabilities of the Fund, (ii) to prevent the retention, and further accumulation and retention, by Hancock of excess funds in the Pension Administration Fund and (iii) to prevent the imposition by Hancock of unwarranted asset liquidation adjustments or other charges;

(F) that Hancock be removed as a party in interest and a fiduciary with respect to the Plan, and as a consequence of such removal that, among other things, (i) Hancock cease all its actions and activities with respect to Plan assets, Plan moneys or other property and Plan administration, and (ii) Hancock make payments to Sperry Trust as demanded in (A), (B), (C) and (D) above;

(G) that Hancock be enjoined from breaching, violating and failing to discharge its duties and obligations under ERISA;

(H) that Hancock pay to Sperry Trust its attorney's fees and costs incurred in this action.

II. On the second cause of action:

(A) that Hancock (i) pay all non-guaranteed benefits due and owing as of trial and (ii) pay as punitive damages twice the amount of such non-guaranteed benefits;

and

(B) directing Hancock to pay all non-guaranteed benefits designated to be paid under the Plan after trial.

The payment of benefits in accordance with (A) and (B) above to be derived from all funds in the Pension

Administration Fund in excess of the Liabilities of the Fund to be calculated (1) utilizing rate tables consistent with and in accordance with sound actuarial principles; or (2) utilizing the case rate used by Hancock for the Pension Administration Fund; or (3) utilizing the 1968 Amendment Hancock rate tables.

III. On each of the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth and fourteenth causes of action, that Hancock:

(A) transfer and payover to Sperry Trust all funds in the Pension Administration Fund as of the trial; or in the alternative,

(B) transfer and payover to Sperry Trust all funds in the Pension Administration Fund in excess of the Liabilities of the Fund as of the trial, such Liabilities of the Fund to be calculated (1) utilizing rate tables consistent with and in accordance with sound actuarial principles, or, in the alternative (2) utilizing the case rate used by Hancock for the Pension Administration Fund.

The transfer and payment in accordance with (A) or (B) above to be with no reduction or diminution in amount for asset liquidation adjustments or any other charges.

IV. On each of the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth and fourteenth causes of action, that Hancock pay to Sperry Trust damages in an amount to be determined at trial.

V. On the Seventh Cause of Action, that GAC 50 is of no force and effect and that Hancock transfer and pay over to Sperry Trust all funds in the Pension Administration Fund without the purchase of annuities and without reduction or diminution in amount for asset liquidation adjustments or any other charges.

VI. On the Thirteenth Cause of Action, that GAC 50 and the 1968 Amendment be reformed to include without limitation provisions (i) to require proper annual calculations of the Liabilities of the Fund, (ii) to prevent the retention, and further accumulation and retention, by Hancock of excess funds in the Pension Administration Fund and (iii) to prevent the imposition by Hancock of unwarranted asset liquidation adjustments or other charges.

VII. On the Fourteenth Cause of Action, that Hancock pay Sperry Trust (in addition to the compensatory damages and other relief previously demanded) as punitive damages an amount equal to not less than the amount presently in the Pension Administration Fund.

VIII. On each of all of the causes of action, that Hancock pay Sperry Trust interest, and costs and disbursements including attorneys' fees.

IX. Such further and other relief as this Court deems just and proper.

Dated: New York, New York
March 30, 1984

ANDERSON RUSSELL KILL &
OLICK, P.C.

By /s/ Lawrence Kill
Lawrence Kill

By /s/ Richard W. Collins
Richard W. Collins

Attorneys for Plaintiff
666 Third Avenue
New York, New York 10017
(212) 850-0700

Answer and Counterclaims

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CHASE MANHATTAN BANK, N.A. as :
Trustee of the Sperry Master
Retirement Trust No. 2, :

Plaintiff, :

83 Civ. 5401 (JFK)

— against — :

JOHN HANCOCK MUTUAL LIFE :
INSURANCE COMPANY, :

ANSWER AND
COUNTERCLAIMS

Defendant. :

-----X
Defendant John Hancock Mutual Life Insurance Company
("Hancock"), by its attorneys Reboul, MacMurray, Hewitt,
Maynard & Kristol, for its answer to the amended complaint:

1. States that it is without knowledge or information sufficient to form a belief as to the truth of any of the averments of paragraph 1 thereof.

2. Denies each and every averment of paragraph 2 thereof, except states (a) that Hancock is a Massachusetts corporation having its principal place of business in Boston, Massachusetts, and is licensed, does business and has offices within the State of New York and (b) that, in respect of the matters in issue in the amended complaint, Hancock has acted and continues to act as an insurance carrier.

3. Denies each and every averment of paragraph 3 thereof, except states that the complaint herein alleges breaches by Hancock of duties and obligations under the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 *et*

seq. ("ERISA"), and breaches of contract and misconduct on the part of Hancock in connection with a certain group annuity contract.

4. States that it is without knowledge or information sufficient to form a belief as to the truth of any of the averments of paragraph 4 thereof, except states (a) that this action purports to involve breaches, violations and failures by Hancock in violation of ERISA and (b) that jurisdiction is purported to be based upon the statutes referred to therein.

5. Denies each and every averment of paragraph 5 thereof, except (a) states (i) that on May 24, 1943, Hancock executed Group Annuity Contract No. 50 GAC ("GAC 50"), effective March 1, 1941, and (ii) that, effective May 1, 1978, Chase Manhattan Bank, N.A. as Trustee under the Sperry Master Retirement Trust No. 2, was substituted for Sperry Corporation as the GAC 50 contractholder and (b) respectfully refers the Court to GAC 50 for its contents.

6. Denies each and every averment of paragraphs 6 through 8 thereof, except (a) states (i) that GAC 50 was amended effective January 1, 1968 (the "1968 Amendment"), and (ii) that Hancock participated in the preparation of the 1968 Amendment and (b) respectfully refers the Court to the 1968 Amendment for its contents.

7. Denies each and every averment of paragraph 9 thereof, except states (a) that the Liabilities of the Fund are determined pursuant to the terms of the 1968 Amendment and (b) that, at the time of Sperry Trust's entry into the 1968 Amendment and thereafter, Hancock acted as an insurance carrier.

8. Denies each and every averment of paragraph 10 thereof, except (a) states that the 1968 Amendment requires contributions by the Employer, as defined in Article I, Section 23, of the 1968 Amendment, under certain circumstances and provides for the termination of GAC 50 under certain circumstances and (b) respectfully refers the Court to the 1968 Amendment for its contents.

9. Denies each and every averment of paragraph 11 thereof, except (a) states (i) that effective August 1, 1977, GAC 50 was amended by an agreement executed by Hancock and Sperry Rand Corporation (the "1977 Amendment"), (ii) that as a consequence of the 1977 Amendment the number of employees (as defined in GAC 50, as amended) and the retirement benefits to which they were entitled were, for purposes of calculating the Liabilities of the Fund (as defined in GAC 50), fixed and (iii) that at all relevant times the book value of the Pension Administration Fund has exceeded the Liabilities of the Fund and (b) respectfully refers the Court to the 1977 Amendment for its contents.

10. Denies each and every averment of paragraph 12 thereof, except states that pursuant to the 1977 Amendment Hancock paid certain non-guaranteed benefits.

11. States that it is without knowledge or information sufficient to form a belief as to the truth of any of the averments of paragraph 13 thereof.

12. Denies each and every averment of paragraphs 14 through 21 thereof, except (a) states that documents bearing the dates designated therein were exchanged between Sperry Corporation and Hancock and (b) respectfully refers the Court to those documents for their contents.

13. Denies each and every averment of paragraph 22 thereof, except states that Hancock has not made any payments of non-guaranteed benefits since June 1982.

14. Denies each and every averment of paragraph 23 thereof, except states that at all relevant times the book value of the Pension Administration Fund has exceeded the Liabilities of the Fund.

15. Denies each and every averment of paragraph 24 thereof, except states that the determination of the amount by which the book value of the Pension Administration Fund under GAC

50 exceeds the Liabilities of the Fund is dependent upon the proper calculation of the Liabilities of the Fund.

16. Denies each and every averment of paragraph 25 thereof, except states that the method employed by Hancock each year to determine the Liabilities of the Fund has been to utilize the rate tables contained in the 1968 Amendment.

17. Denies each and every averment of paragraph 26 thereof, except respectfully refers the Court to the 1968 Amendment for its contents.

18. Denies each and every averment of paragraph 27 thereof, except states that at all relevant times since the effective date of the 1977 Amendment the book value of the Pension Administration Fund has exceeded the Liabilities of the Fund.

19. Denies each and every averment of paragraph 28 thereof.

20. States that it is without knowledge or information sufficient to form a belief as to the truth of any of the averments of paragraphs 29 and 30 thereof.

21. Denies each and every averment of paragraphs 31 and 32 thereof, except states that Hancock and Sperry Corporation conducted negotiations with respect to the application of the excess of the book value of the Pension Administration Fund over the Liabilities of the Fund.

22. Denies each and every averment of paragraph 33 thereof, except respectfully refers the Court to the 1968 Amendment for its contents.

23. States that it is without knowledge or information sufficient to form a belief as to the truth of any of the averments of paragraph 34 thereof.

24. Denies each and every averment of paragraph 35 thereof.

25. States that it is without knowledge or information sufficient to form a belief as to the truth of any of the averments of paragraphs 36 and 37 thereof.

26. With respect to the averments of paragraph 38 thereof, repeats and reavers each and every averment of paragraphs 1 through 25 hereof as if fully set forth herein.

27. Denies each and every averment of paragraphs 39 through 41 thereof.

28. With respect to the averments of paragraph 42 thereof, repeats and reavers each and every averment of paragraphs 1 through 25 and 27 hereof as if fully set forth herein.

29. Denies each and every averment of paragraphs 43 and 44 thereof.

30. With respect to the averments of paragraph 45 thereof, repeats and reavers each and every averment of paragraphs 1 through 25, 27 and 29 hereof as if fully set forth herein.

31. Denies each and every averment of paragraphs 46 and 47 thereof, except respectfully refers the Court to the 1968 Amendment for its contents.

32. Denies each and every averment of paragraph 48 thereof.

33. Denies each and every averment of paragraph 49 thereof, except states that Hancock uses and has used the 1968 rate basis and tables in determining the Liabilities of the Fund.

34. Denies each and every averment of paragraph 50 thereof.

35. With respect to the averments of paragraph 51 thereof, repeats and reavers each and every averment of paragraphs 1 through 25, 27, 29 and 31 through 34 hereof as if fully set forth herein.

Normal Retirement Date the same Normal Retirement Annuity which would have been provided for him if he had elected option (a) of B of this sub-section.

The Company reserves the right not to grant option (b) of A of this sub-section if the yearly amount of Retirement Annuity to be provided thereunder would be less than \$60 unless the employee has

- (a) met the vesting requirements as determined under the terms of Part A, Part B, Part C, Part D or Part E of the Contract, whichever is applicable to him, as in effect on December 31, 1967, or
- (b) met the vesting requirements as determined by the Retirement Committee in accordance with the Plan.

Subject to this limitation, and unless within ninety days after the Termination of Employment Date of the employee he elects option (a) of either A or B of this sub-section, whichever is applicable to him, option (b) of A or B, whichever is applicable to him, shall be deemed to have been elected automatically.

- D. If the Termination of Employment Date of an employee is prior to January 1, 1968, the provisions of this Section as in effect prior to January 1, 1968 shall be applicable.
- E. On written request of the employee alone, filed with the Company at its Home Office, an earlier Optional Retirement Date or an Optional Form of Retirement Annuity may be granted to such employee with respect to any Retirement Annuity

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to be provided under this sub-section, subject to the conditions and provisions of this Contract otherwise applicable to such options.

II. Provisions Applicable to an Employee with Respect to Retirement Annuities provided under the Plan on and after January 1, 1968.

- A. If the Termination of Employment Date of the Employee occurs prior to the discontinuance of the payment of Contributions hereunder in accordance with Section 7 of Article III and provided the employee meets the vesting requirements as determined by the Retirement Committee in accordance with the Plan, the employee shall be entitled on his Normal Retirement Date to the yearly amount of Normal Retirement Annuity provided on his account in accordance with the Plan, as determined by the Retirement Committee, exclusive of that portion of such Retirement Annuity, if any, described in I above.
- B. If the Termination of Employment Date of the Employee occurs on or after the date of discontinuance of the payment of contributions hereunder in accordance with Section 7 of Article III and prior to the termination of the Fund, the employee shall be entitled on his Normal Retirement Date to the yearly amount of Normal Retirement Annuity provided on his account in accordance with the Plan, as determined by the Retirement Committee, exclusive of that portion of such Retirement Annuity, if any, described in I above.

The provisions of this sub-section shall not be applicable during any period in which the first paragraph of Section 8 of Article III is in effect.

SECTION 7. Instalment Payment of Cash Surrender Values

The Company may elect at any time to pay any employee's cash surrender value in twelve successive monthly instalments,

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with the first instalment being due on the date such cash surrender value would otherwise be payable to the employee.

If any cash surrender values are paid in instalments, interest on the unpaid instalments thereof shall be allowed at the effective rate of three per cent per annum, compounded annually, from the dates on which such cash surrender values would otherwise have been payable.

SECTION 8. Cancellation of Retirement Annuity Payments to an Employee

If an employee re-enters the employ of the Employer subsequent to his Annuity Commencement Date and prior to his Normal Retirement Date, that portion of the Retirement Annuity payments otherwise due and payable to the employee in accordance with the Plan, as determined by the Retirement Committee, which is in excess of the amount, if any, of the Retirement Annuity due and payable to the employee on account of Retirement Annuities in effect with respect to him which were cancelled on January 1, 1968, shall be cancelled by the Company on the first day of the month next following the date on which the Company receives written notice from the Retirement Committee at its Home Office that the employee is re-employed; provided, however, such notice must be received by the Company prior to the date of termination of the Fund and at least thirty days prior to the date on which Annuity payments are to be suspended with respect to such employee. Upon receipt of written notice from the Retirement Committee at least thirty days prior to the subsequent Annuity Commencement Date of the employee that the employee is to retire from the service of the Employer, the Company shall resume Retirement Annuity payments to the employee. The yearly amount of the Retirement Annuity payable to the employee commencing on his subsequent Annuity Commencement Date shall, subject to the terms and conditions hereof, be equal to the sum of the yearly amount of Retirement Annuity payable to the employee on account of Retirement Annuities in effect with respect to him which were cancelled on January 1, 1968 and the yearly amount of

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Retirement Annuity determined by the Retirement Committee in accordance with the Plan, which is provided on his account on his subsequent Annuity Commencement Date.

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ARTICLE V. GENERAL PROVISIONS

SECTION 1. Certificates

The Company shall issue to the Retirement Committee, for delivery to each employee covered hereunder, an individual Certificate containing in substance a statement of the benefits to which the employee is entitled under this Contract and stating the name of the beneficiary to whom any death benefit shall be payable. In the event the Certificate of an employee is lost the Company on receipt of written notice thereof at its Home Office on the Company's prescribed form shall issue a new Certificate for such employee.

The Certificate delivered to an employee covered hereunder shall be surrendered to the Company before it shall pay a death benefit to the beneficiary. The word "Certificate" as used herein includes Certificate riders, if any.

SECTION 2. Beneficiary

An employee covered hereunder may designate the beneficiary to whom any death benefit shall be payable and may from time to time, so long as there is any benefit payable thereto in event of his death, change such beneficiary by filing written notice thereof with the Company at its Home Office. Such change shall take effect, upon receipt of such written notice at the Home Office of the Company, as of the date the employee signed such written notice, whether or not the employee is living at the time of such receipt and without prejudice to the Company on account of any payment made by it before such receipt of such written notice.

In the event of the death of any beneficiary prior to that of the employee, the interest of such beneficiary shall vest in the employee by whom he was designated. Any amount payable hereunder as a death benefit which is not payable to a designated beneficiary, shall be payable to the executors or administrators of the employee, except that the Company may in such case,

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at its option, make payment of such amount to any one of or jointly to any number of the following surviving relatives of the employee; wife, husband, mother, father, child or children, brother or brothers, sister or sisters; and such payment shall completely discharge the liability of the Company with respect to the amount so paid.

SECTION 3. Facility of Payment

If any payee hereunder is, in the judgment of the Company, legally, physically, or mentally incapable of personally receiving and receipting for any payment due hereunder, the Company may make payment of the amounts payable to such other person, persons, or institution who, in the opinion of the Company, are then maintaining or have custody of such payee, until claim is made by a duly appointed guardian or other legal representative of such payee. Such payments shall constitute a full discharge of the liability of the Company to the extent thereof.

SECTION 4. Assignment of Contract or Benefits Prohibited

Any assignment of this Contract shall be void. To the extent permitted by law, the benefits or any part thereof payable under this Contract, shall not be subject to commutation, anticipation, encumbrance, alienation, or assignment by any person entitled thereto; and no payments of interest or principal hereunder shall be subject to any debts, contracts, or engagements of any such person, or to any judicial process to levy upon or attach the same for the payment thereof; provided, however, that any employee who elects a cash surrender value in accordance with Section 6 of Article IV may assign the amount of cash surrender value due him, but any such assignment must be in writing and shall not be binding upon the Company until the original or duplicate thereof has been filed with the Company at its Home Office. The Company will assume no responsibility as to the validity of any such assignment.

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SECTION 5. Information to be Furnished - Misstatements.

Either or both the Retirement Committee and the employee shall furnish all information such as evidence of health, data, proofs, certificates of birth and death and evidence of survival, which the Company may reasonably require on or with regard to the happening of any event of existence of any status affecting or relating to the coverage of any employee whether before or after commencement of Retirement Annuity payments hereunder. The Retirement Committee shall furnish the Company with all information which the Company may reasonably require to make estimates of cost and valuations in accordance with the provisions of this Contract.

Determination by the Pension Committee of the amount and annual rate of Compensation of an employee applicable to any calculations hereunder, of the classification of any employee for any purpose hereunder and of the number of years of service of an employee in any capacity, shall be conclusive for the purposes of this Contract.

If it shall be found that the age, sex or any other relevant fact with respect to an employee has been misstated, an equitable adjustment shall be made in the Liabilities of the Fund or in the Considerations applied on termination of the Fund on account of such employee.

Nothing in this Contract shall be construed as giving any benefit in excess of the benefit to which an employee would have been entitled on the basis of the correct age, sex, or any other relevant fact with respect to such employee; and no greater amount of benefit shall be payable by the Company on account of an employee than would have been provided on the basis of the correct information and the actual considerations paid to and received by the Company on such account. Any overpayment or excess credit by the Company shall, with interest at the rate of five per cent per annum, be charged at the option of the Company, either in a single sum against the Fund or against

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any further payments or credits to either or both such employee and Employer. Any underpayment by the Company shall be paid to the person entitled thereto.

Wherever in this Section the word "Employee" is used, it shall be deemed in all instances where appropriate to include the Contingent Annuitant, if any, designated by the employee.

SECTION 6. Evidence of Survival

The Company shall have the right to require satisfactory evidence that an employee or Contingent Annuitant is living on each and every date when a Retirement Annuity payment is due such employee or Contingent Annuitant. In the absence of such evidence when requested by the Company, any payments otherwise due shall not be made until such evidence shall have been received. The Company shall also have the right to require satisfactory evidence that a beneficiary receiving payments under the Option of Life Annuity with Payments for Five Years Certain, the Option of Life Annuity Payments for Ten Years Certain, the Option of Life Annuity with Payments for Fifteen Years Certain, or the Option of Life Annuity with Payments for Twenty Years Certain, is living on each and every date when an annuity payment is due such beneficiary.

SECTION 7. Participation in Divisible Surplus

This Contract is a participating Contract. The Company shall annually ascertain and apportion any divisible surplus accruing under contracts of this class. Any such divisible surplus apportioned to this Contract shall be credited to the Fund and shall be considered a part of any Contribution paid to the Company in the Contract Year in which such dividend is so apportioned, unless termination of the Fund has occurred, in which event any such divisible surplus shall be paid in cash to the Employer. In lieu of such credit to the Fund, the Employer may direct, in a written notice filed with the Company, at its Home Office, that any such divisible surplus be placed in whole or in part in the Supplemental Fund.

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SECTION 8. Modification of This Contract

This Contract may be modified or altered at any time by agreement between the Company and the Employer. Except as provided in the second, third and fourth succeeding paragraphs, this Contract may also be modified or altered in any respect by the Company on January 1, 1973 and on each January 1st thereafter, upon written notice to the Employer not less than ninety days prior thereto, and if the Employer does not file written notice with the Company at its Home Office of its assent to any such modification or alteration prior to the proposed effective date thereof, then it shall become effective only insofar as it affects

- (a) the rates in Article VI and the method of their application, and
- (b) the amount of deduction to be made from the share of net interest which is added to the Fund in accordance with the first paragraph of Section 3 of Article III, and the amount of deduction to be made from the share of net investment earnings which is added to the Supplemental Fund in accordance with the first paragraph of sub-section B of Section 10 of Article III, and

the payment of contributions hereunder may be discontinued in accordance with Section 7 of Article III.

Any modification or alteration in this Contract shall not affect the amount or the terms of the Retirement Annuities provided or purchased hereunder prior to the effective date of such modification or alteration; provided, however, that either or both the amount and the terms of Retirement Annuities provided or purchased on account of such modification or alteration in this Contract may be affected by further modifications or alterations made in this Contract for the purposes of conforming this Contract under the Internal Revenue Code of the United States as required by the United States Treasury Department on review of the Contract pursuant to a request for a determination letter.

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The rate of interest used in calculating Employee's Accumulations and the rates set forth in Table 1 of Article VI which are applicable to the determination of the amount of Retirement Annuity on account of Employee's Accumulations shall remain in effect with respect to Employee's Contributions being held by Company on January 1, 1968 and the interest thereon until all of the Employee's Contributions and interest thereon have been used to provide or purchase Annuities, or pay cash Surrender values or death benefits.

Unless otherwise mutually agreed upon between the Employer and the Company, the rates shown in Tables 2a, 2b, 2c, 3b, 3c, 4a, 4b, 4c, 5a, 5b, 5c, 6a, 6b, 6c, 7a, 7b and 7c of Article VI, including the annual increases described in such Tables, shall remain in effect for the determination of the amounts to be included in the Liabilities of the Fund on any date with respect to all Annuities provided hereunder prior to January 1, 1973 and all Annuities cancelled on January 1, 1968 and shall be applicable with respect to all Annuities purchased hereunder on the date of termination of the Fund which were provided prior to January 1, 1973 or which were provided in accordance with Section 7 of Article III on account of the Annuities which were cancelled on January 1, 1968 regardless of when such termination of the Fund occurs.

Unless otherwise mutually agreed upon between the Employer and the Company, the 1% rate of deduction from the share of net interest which is added to the Fund in accordance with the first paragraph of Section 3 of Article III shall remain in effect with respect to the portion of such net interest as the Company determines is attributable to the balance, if any, in the Fund on any date arising from Contributions made hereunder prior to January 1, 1973. Unless otherwise mutually agreed upon between the Employer and the Company, the 1% rate of deduction from the share of net investment earnings which is added to the Supplemental Fund in accordance with the first paragraph of sub-section B of Section 10 of Article III shall remain in effect with respect to the portion of such net interest earnings as

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the Company determines is attributable to the balance, if any, in the Supplemental Fund on any date arising from Contributions made hereunder prior to January 1, 1973.

No person except the President, a Vice President, the Secretary or an Assistant Secretary of the Company is authorized to waive, alter, modify, or change any of the conditions or the provisions of this Contract, including this provision, or of any endorsement hereon, or to waive any forfeiture hereof, to extend credit or the time for the payment of any contribution or any moneys due the Company, or to bind it by making any statement or receiving at any time any notice or information not contained in the application for this Contract.

No person except the President, a Vice President, the Secretary or the Treasurer of the Employer is authorized to waive, alter, modify, or change any of the conditions or the provisions of this Contract, including this provision, or of any endorsement hereon.

SECTION 9. Employer or Retirement Committee Not Agents of Company

The Employer or the Retirement Committee shall in no event be considered the agents of the Company for any purpose under this Contract.

SECTION 10. Construction

This Contract, and all rights thereunder, shall be construed, administered, and governed in all respects in accordance with the laws of the State of New York.

The Plan is not a part of the Contract. The Company's rights and obligations shall be governed by the provisions of the Contract notwithstanding any contrary provisions of the Plan.

SECTION 11. Funds Under This Contract

All monies under this Contract shall be part of the general corporate funds of the Company. The Supplemental Fund and

ARTICLE V

Form 100-50 GAC-10 Amendment effective January 1, 1968

all monies therein shall be assigned to the Separate Investment Account of the Company.

SECTION 12. Management of Separate Investment Account

The Company shall be the sole owner of the assets in and shall have the sole right to control, manage and administer the Separate Investment Account and each investment class it establishes within such Account and may take any action which, in its judgment, is necessary or desirable for carrying out its duties in connection therewith, including but not limited to the right:

- (a) to invest and reinvest all monies attributable to an investment class in such securities of any kind or character which the Company in its sole discretion may select consistent with the investment policy established by the Company for such investment class,
- (b) to sell, convey, transfer, exchange and otherwise dispose of property from time to time in such manner and upon such terms as it, in its sole discretion, may determine,
- (c) to retain in cash without liability for interest such funds as it shall deem reasonable, and
- (d) to establish and withdraw (subject to the provision in the last sentence of sub-section A of Section 10 of Article III) any investment class or classes within the Separate Investment Account.

The Company shall use its best judgment in taking any action and shall be bound at all times to act in good faith. However, it shall not be liable for any losses which may be incurred upon investments in the Separate Investment Account or for any error of judgment or mistake of law or act or for any act or omission so long as it has acted in good faith.

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The Employer, its successors and assigns, shall have no individual ownership in or to any investments or assets in the Separate Investment Account and neither the allocation to this Contract of a pro rata share of monies in an investment class or classes nor the records and accounts kept in connection therewith shall be deemed to confer any such ownership.

SECTION 13. Application of Rate Tables

Table 1

In the application of Table 1 of Article VI, the yearly amount of Immediate Annuity with respect to an employee shall be determined on the first day of any month by the amount shown for the sex and at the attained age of the employee on his birthday last preceding such date, with an addition to the amount for such age, for each month elapsing between the first day of the month nearest such birthday and such date of an amount equal to one-twelfth of the difference between such amount and the amount for an age one year older.

Tables 2a, 2b and 2c

In the application of Table 2a, Table 2b and Table 2c of Article VI, the Consideration with respect to an employee shall be determined

- (a) On any December 31 by the rate shown for the sex of the employee in the column headed by the appropriate ratio of death benefit to Retirement Annuity or, in the case where no death benefit is provided on such December 31, in the column headed by "No Death Benefit" and at the age the employee attains during the calendar year in which such December 31 falls, and
- (b) on any date other than December 31 by the rate applicable to such employee on the December 31 immediately preceding such date with a deduction from such rate for each month elapsing between

ARTICLE V

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such December 31 and such date of an amount equal to one-twelfth of the difference between such rate and the rate applicable to such employee on the immediately following December 31.

The ratio of death benefit to Retirement Annuity for an employee as of any December 31 is equal to the number of years elapsing between such December 31 and the December 31 of the calendar year immediately preceding the calendar year in which the death benefit ceases.

Any amount determined in accordance with this Table on account of a Contingent Annuitant will be determined as though the Contingent Annuitant were an employee.

Tables 3b and 3c

In this application of Table 3b and Table 3c of Article VI, the Consideration with respect to an employee shall be determined

- (a) on any December 31 by the rate shown for the sex of the employee, in the column headed by the appropriate ratio of Employee's Accumulation to Deferred Annuity, or in the case where no death benefit is provided on such December 31, in the column headed by "No Death Benefit", and at the age the employee attains during the calendar year in which such December 31 falls and
- (b) on any date other than December 31 by the rate applicable to such employee on the December 31 immediately preceding such date with an addition to such rate for each month elapsing between such December 31 and such date of an amount equal to one-twelfth of the difference between such rate and the rate applicable to such employee on the immediately following December 31.

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The ratio of Employee's Accumulation to Deferred Annuity for an employee as of any December 31 is equal to the largest integer in the ratio of the Employee's Accumulation immediately prior to the Normal Retirement Date to the amount of Normal Retirement Annuity.

Tables 4a, 4b and 4c

In the application of Table 4a, Table 4b and Table 4c of Article VI, the Consideration with respect to a Contingent Annuitant shall be determined.

- (a) on any December 31 by the rate shown for the sex of the employee and the Contingent Annuitant and at the age the employee and the Contingent Annuitant attain during the Calendar Year in which such December 31 falls, and
- (b) on any date other than December 31 by the rate applicable to such employee and Contingent Annuitant on the December 31 immediately preceding such date with a deduction from such rate for each month elapsing between such December 31 and such date of an amount equal to one-twelfth of the difference between such rate and the rate applicable to such employee and Contingent Annuitant on the immediately following December 31.

Tables 5a, 5b and 5c

In the application of Table 5a, Table 5b and Table 5c of Article VI, the Consideration with respect to an employee shall be determined

- (a) on any December 31 by the rate shown for the sex of the employee corresponding to the number of years in the certain period for which the annuity is to be paid and on the line corresponding to the age the employee attains during the calendar year in which such December 31 falls, and

ARTICLE V

- (b) on any date other than December 31 by the rate applicable to such employee on the December 31 immediately preceding such date with a deduction from such rate for each month elapsing between such December 31 and such date of an amount equal to one-twelfth of the difference between such rate and the rate applicable to such employee on the immediately following December 31.

In determining the number of years in the certain period for which the annuity is to be paid, subtract the calendar year in which such determination is to be made from the calendar year in which the annuity ceases to be payable on a certain basis, and if the period in which the annuity is to be payable has expired the rate will be determined from the column headed "NS" and on the line corresponding to the age the employee attains during the calendar year in which such December 31 falls.

Tables 6a, 6b and 6c

In the application of Table 6a, Table 6b and Table 6c of Article VI, the Consideration with respect to a beneficiary shall be determined

- (a) on any December 31 by the number of years for which the annuity is to be paid. In determining the number of years in which payments are to be made, subtract the calendar year in which such determination is made from the calendar year preceding that in which the final payment is due, and
- (b) on any date other than December 31 by the rate applicable to such beneficiary on the December 31 immediately preceding such date with a deduction from such rate for each month elapsing between such December 31 and such date of an amount equal to one-twelfth of the difference between such rate and the rate applicable to such beneficiary on the immediately following December 31.

ARTICLE V

Tables 7a, 7b and 7c

In the application of Table 7a, Table 7b, Table 7c of Article VI, the Consideration with respect to an employee shall be determined

- (a) on any December 31 by the rate shown for the sex of the employee, in the column headed by the appropriate ratio of death benefit to Retirement Annuity or, in the case where no death benefit is provided on such December 31, in the column headed by "No Death Benefit", and at the age the employee attains during the calendar year in which such December 31 falls, and
- (b) on any date other than December 31 by the rate applicable to such employee on the December 31 immediately preceding such date with a deduction from such rate for each month elapsing between such December 31 and such date of an amount equal to one-twelfth of the difference between such rate and the rate applicable to such employee on the immediately following December 31.

The ratio of death benefit to Retirement Annuity for an employee as of any December 31 is equal to the number of years elapsing between such December 31 and the December 31 in the calendar year immediately preceding the calendar year in which the death benefit ceases.

SECTION 14. Incontestability

This Contract shall be incontestable, except for non-payment of considerations, after it has been in effect for one year from its date of issued.

SECTION 15. Entire Contract

This Contract and the application of the Employer, a copy of which is attached hereto and made a part hereof, constitute

ARTICLE V

Form 100-50 GAC-10 Amendment effective January 1, 1968

the entire Contract between the parties hereto. All statements made by the Employer shall, in the absence of fraud, be deemed representations and not warranties. The employee's Certificate shall not be deemed a part of this Contract.

SECTION 16. Non-Waiver of Contract Provisions

The failure on the part of the Company or of the Employer to perform or to insist upon the strict performance of any term, provision or condition of this Contract, shall neither constitute a waiver on the part of the Company or of the Employer of its right to perform or require the performance of such term, provision or condition nor estop it from exercising any other rights it may have under such term, provision or condition or otherwise under this Contract.

ARTICLE V

Form 100-50 GAC-10 Amendment effective January 1, 1968

ARTICLE VI. TABLES

TABLE I

YEARLY AMOUNT OF IMMEDIATE ANNUITY ON
ACCOUNT OF EMPLOYEE'S ACCUMULATION

Yearly Amount of Immediate Annuity which must be Provided on account of \$100 of Employee's Accumulation if Applied in One Sum to Provide an Immediate Annuity in accordance with Section 4 of Article II and Section 6 of Article IV.

Male Employee	Attained Age Of Employee	Female Employee
\$5.41	55	\$4.97
5.51	56	5.05
5.62	57	5.13
5.73	58	5.22
5.84	59	5.31
5.97	60	5.41
6.09	61	5.51
6.23	62	5.62
6.37	63	5.73
6.52	64	5.84
6.67	65	5.97
6.83	66	6.09

Reference should be made to Section 13 of Article V to determine the correct age to use in the application of the amounts shown above.

Rates for other ages will be furnished by the Company on request of the Retirement Committee.

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TABLE I
ARTICLE VI

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ARTICLE VI. TABLES

TABLES 2a

RATES OF CONSIDERATIONS APPLICABLE
TO THE PURCHASE OF IMMEDIATE AN-
NUITIES IN ACCORDANCE WITH SECTION
7 OF ARTICLE III AND TO THE DETER-
MINATION OF THE LIABILITIES OF THE
FUND IN ACCORDANCE WITH SECTION 2
OF ARTICLE III

The rates applicable in the calendar year 1968 shall be the rates shown below. The rates applicable in the calendar year 1969 will be increased 1/2% over the rates for 1968, and the rates applicable in each subsequent calendar year will be increased 1/2% over the rates for the immediately preceding calendar year.

Amount of Consideration Required on account of an Employee in One Sum in accordance with Sections 2 and 7 of Article III to Provide or Purchase an Immediate Annuity of \$10 per annum.

TABLE 2a
ARTICLE VI

Form 100-50 GAC-10 Amendment effective January 1, 1968

Attained Age of Employee	No Death Benefit	Ratio of Death Benefit to Retirement Annuity							
		0	1	2	3	4	5	6	7
Male									
Female									
50	\$155.77	\$155.77	\$155.80	\$155.86	\$155.96	\$156.09	\$156.26	\$156.47	\$156.73
51	153.56	153.56	153.60	153.67	153.77	153.92	154.11	154.35	154.64
52	151.29	151.30	151.34	151.42	151.54	151.70	151.92	152.18	152.50
53	149.98	148.99	149.03	149.12	149.25	149.44	149.68	149.97	150.33
54	146.61	146.62	146.67	146.77	146.92	147.13	147.39	147.72	148.11
55	144.20	144.21	144.27	144.38	144.54	144.77	145.07	145.43	145.86
56	141.74	141.76	141.82	141.94	142.12	142.38	142.70	143.10	143.57
57	139.24	139.25	139.32	139.45	139.66	139.93	140.29	140.72	141.23
58	136.69	136.70	136.77	136.92	137.14	137.45	137.84	138.31	138.86
59	134.08	134.10	134.18	134.34	134.58	134.92	135.34	135.85	136.45
60	131.43	131.45	131.54	131.71	131.98	132.34	132.80	133.35	134.00
55	128.73	128.75	128.84	129.03	129.32	129.71	130.21	130.81	131.51
56	125.97	125.99	126.09	126.30	126.61	127.03	127.57	128.22	128.98
57	123.15	123.18	123.29	123.51	123.85	124.30	124.88	125.58	126.41
58	120.27	120.30	120.42	120.66	121.02	121.52	122.14	122.90	123.80
59	117.33	117.36	117.49	117.75	118.14	118.68	119.36	120.18	121.16
60	114.33	114.36	114.50	114.78	115.21	115.79	116.53	117.43	118.50
61									

Form 100-50 GAC-10

TABLE 2a, ARTICLE VI
Amendment effective January 1, 1968

Attained Age of Employee	No Death Benefit	Ratio of Death Benefit to Retirement Annuity								
		0	1	2	3	4	5	6	7	
Male	Female									
62	67	111.26	111.29	111.44	111.75	112.22	112.86	113.66	114.65	115.82
63	68	108.14	108.17	108.34	108.67	109.19	109.88	110.77	111.85	113.13
64	69	104.96	105.01	105.18	105.55	106.12	106.89	107.86	109.05	110.45
65	70	101.76	101.80	102.00	102.41	103.03	103.88	104.95	106.25	107.78
66	71	98.53	98.58	98.80	99.25	99.94	100.87	102.05	103.46	105.13
67	72	95.30	95.36	95.60	96.10	96.86	97.88	99.16	100.71	102.53
68	73	92.09	92.15	92.42	92.97	93.79	94.90	96.30	97.99	99.97
69	74	88.88	88.95	89.24	89.83	90.74	91.95	93.47	95.31	97.46
70	75	85.65	85.73	86.05	86.70	87.68	89.01	90.67	92.68	95.01
71	76	82.41	82.50	82.84	83.56	84.64	86.09	87.91	90.09	92.63
72	77	79.18	79.27	79.65	80.44	81.63	83.21	85.20	87.57	90.34
73	78	75.97	76.07	76.50	77.36	78.66	80.40	82.56	85.15	88.14
74	79	72.80	72.92	73.38	74.33	75.75	77.65	80.00	82.81	86.06
75	80	69.68	69.80	70.31	71.35	72.91	74.98	77.54	80.60	84.11

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TABLE 2a, ARTICLE VI
Amendment effective January 1, 1968

Reference should be made to Section 13 of Article V to determine the correct age and ratio to use in the application of the rates shown above.

Rates for other ages and when the ratio of death benefit to Retirement Annuity exceeds 7 will be furnished by the Company when necessary.

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TABLE 3c

RATES OF CONSIDERATIONS APPLICABLE TO THE PURCHASE OF DEFERRED NORMAL ANNUITIES IN ACCORDANCE WITH SECTION 7 OF ARTICLE III AND TO THE DETERMINATION OF THE LIABILITIES OF THE FUND IN ACCORDANCE WITH SECTION 2 OF ARTICLE III

These rates apply to a Male Employee whose Normal Retirement Date is the First Day of the Month Coincident with or next following the Sixty-fifth Birthday of the Employee in accordance with Definition 5 of Article I.

Amount of Consideration Required on account of a Male Employee in One Sum in accordance with Sections 2 and 7 of Article III to Provide or Purchase a Deferred Normal Annuity of \$10 per annum.

TABLE 3c
ARTICLE VI

Form 100-50 GAC-10 Amendment effective January 1, 1968

Attained Age of Employee	No Death Benefit	Ratio of Employee's Accumulation to Deferred Annuity to be Provided or Purchased							
		0	1	2	3	4	5	6	7
30	\$ 36.90	\$ 37.38	\$ 38.40	\$ 39.55	\$ 40.82	\$ 42.23	\$ 43.78	\$ 45.48	\$ 47.34
31	38.04	38.52	39.56	40.73	42.02	43.45	45.02	46.74	48.62
32	39.22	39.71	40.76	41.94	43.25	44.70	46.30	48.03	49.94
33	40.43	40.93	42.00	43.20	44.53	45.99	47.61	49.37	51.30
34	41.69	42.19	43.28	44.50	45.84	47.32	48.97	50.75	52.69
35	42.99	43.50	44.59	45.83	47.20	48.69	50.36	52.17	54.13
36	44.33	44.85	45.96	47.21	48.60	50.11	51.80	53.63	55.62
37	45.71	46.24	47.37	48.64	50.04	51.58	53.28	55.14	57.15
38	47.15	47.68	48.82	50.11	51.53	53.09	54.81	56.69	58.73
39	48.63	49.17	50.33	51.63	53.07	54.65	56.38	58.29	60.35
40	50.17	50.72	51.89	53.20	54.66	56.26	58.01	59.93	62.03
41	51.76	52.32	53.50	54.83	56.30	57.92	59.69	61.63	63.75
42	53.41	53.97	55.17	56.51	58.00	59.63	61.43	63.38	65.52
43	55.12	55.69	56.90	58.25	59.75	61.41	63.22	65.19	67.36
44	56.90	57.47	58.69	60.05	61.57	63.24	65.07	67.07	69.24
45	58.75	59.33	60.56	61.93	63.46	65.15	66.99	69.00	71.20
46	60.69	61.27	62.51	63.88	65.42	67.12	68.98	71.01	73.21
47	62.71	63.30	64.54	65.92	67.46	69.17	71.05	73.09	75.31

TABLE 3c, ARTICLE VI
Amendment effective January 1, 1968

Attained Age of Employee	No Death Benefit	Ratio of Employee's Accumulation to Deferred Annuity to be Provided or Purchased							
		0	1	2	3	4	5	6	7
48	64.83	65.42	66.66	68.04	69.59	71.31	73.19	75.24	77.48
49	67.06	67.64	68.88	70.26	71.81	73.53	75.41	77.49	79.73
50	69.39	69.97	71.20	72.58	74.12	75.84	77.73	79.80	82.06
51	71.85	72.42	73.64	75.01	76.54	78.26	80.15	82.22	84.48
52	74.44	75.01	76.21	77.57	79.08	80.78	82.67	84.74	86.99
53	77.18	77.73	78.91	80.25	81.75	83.43	85.30	87.36	89.61
54	80.07	80.60	81.76	83.07	84.54	86.20	88.05	90.09	92.33
55	83.13	83.64	84.26	86.03	87.48	89.11	90.92	92.95	95.17
56	86.37	86.86	87.93	89.17	90.57	92.16	93.94	95.93	98.13
57	89.81	90.27	91.29	92.47	93.83	95.38	97.12	99.06	101.22
58	93.46	93.89	94.84	95.97	97.27	98.76	100.45	102.35	104.46
59	97.35	97.74	98.62	99.67	100.90	102.33	103.96	105.80	107.86
60	101.49	101.84	102.62	103.59	104.75	106.10	107.66	109.44	111.43
61	105.91	106.21	106.89	107.76	108.82	110.09	111.57	113.26	115.18
62	110.64	110.88	111.45	112.20	113.16	114.32	115.70	117.30	119.13
63	115.73	115.90	116.33	116.95	117.78	118.82	120.08	121.57	123.29
64	121.21	121.30	121.57	122.04	122.72	123.62	124.74	126.10	127.71

TABLE 3c
ARTICLE VI
Amendment effective January 1, 1968

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Reference should be made to Section 13 of Article V to determine the correct age and ratio to use in connection with the application of the rates shown above.

When the ratio of Employee's Accumulation exceeds 7, rates will be furnished by the Company when necessary.

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TABLE 3c - Continued

RATES OF CONSIDERATIONS APPLICABLE TO THE PURCHASE OF DEFERRED NORMAL ANNUITIES IN ACCORDANCE WITH SECTION 7 OF ARTICLE III TO THE DETERMINATION OF THE LIABILITIES OF THE FUND IN ACCORDANCE WITH SECTION 2 OF ARTICLE III

These Rates Apply to A Female Employee whose Normal Retirement Date is the First Day of the Month Coincident with or next following the Sixtieth Birthday of the Employee in accordance with Definition 5 of Article I.

Amount of Consideration Required on account of a Female Employee in One Sum in accordance with Sections 2 and 7 of Article III to Provide or Purchase a Deferred Normal Annuity of \$10 per annum.

TABLE 3c
ARTICLE VI

Form 100-50 GAC-10 Amendment effective January 1, 1968

Attained Age of Employee	No Death Benefit	Ratio of Employee's Accumulation to Deferred Annuity to be Provided or Purchased							
		0	1	2	3	4	5	6	7
30	\$ 64.79	\$ 65.00	\$ 65.45	\$ 65.98	\$ 66.56	\$ 67.22	\$ 67.95	\$ 68.75	\$ 69.63
31	66.77	66.99	67.45	67.98	68.57	69.23	69.97	70.78	71.67
32	68.82	69.04	69.51	70.04	70.64	71.31	72.05	72.87	73.77
33	70.94	71.16	71.63	72.17	72.78	73.45	74.20	75.03	75.94
34	73.12	73.34	73.82	74.36	74.98	75.66	76.41	77.25	78.17
35	75.38	75.60	76.08	76.63	77.25	77.93	78.69	79.54	80.47
36	77.70	77.93	78.41	78.97	79.59	80.28	81.05	81.90	82.84
37	80.11	80.33	80.82	81.38	82.01	82.71	83.48	84.34	85.28
38	82.59	82.82	83.31	83.87	84.50	85.21	85.99	86.85	87.80
39	85.15	85.38	85.88	86.44	87.08	87.79	88.58	89.44	90.40
40	87.80	88.03	88.53	89.09	89.74	90.45	91.24	92.12	93.08
41	90.54	90.77	91.27	91.84	92.48	93.20	94.00	94.88	95.84
42	93.37	93.61	94.11	94.67	95.32	96.04	96.84	97.73	98.70
43	96.30	96.54	97.04	97.60	98.25	98.98	99.78	100.67	101.65
44	99.34	99.57	100.07	100.63	101.28	102.01	102.82	103.71	104.69

TABLE 3c
ARTICLE VI
Amendment effective January 1, 1968

Form 100-50 GAC-10

Attained Age of Employee	No Death Benefit	Ratio of Employee's Accumulation to Deferred Annuity to be Provided or Purchased							
		0	1	2	3	4	5	6	7
45	102.47	102.70	103.20	103.77	104.41	105.14	105.95	106.85	107.83
46	105.73	105.95	106.45	107.01	107.65	108.38	109.19	110.09	111.08
47	109.09	109.32	109.81	110.37	111.01	111.74	112.55	113.44	114.43
48	112.59	112.81	113.30	113.85	114.49	115.21	116.01	116.91	117.90
49	116.23	116.44	116.92	117.47	118.10	118.81	119.61	120.50	121.49
50	120.01	120.23	120.69	121.23	121.85	122.55	123.34	124.23	125.20
51	123.97	124.17	124.62	125.15	125.75	126.44	127.22	128.09	129.06
52	128.10	128.29	128.73	129.23	129.82	130.50	131.26	132.12	133.07
53	132.43	132.61	133.02	133.50	134.07	134.73	135.47	136.31	137.24
54	136.97	137.14	137.52	137.97	138.52	139.14	139.86	140.68	141.59
55	141.74	141.90	142.24	142.66	143.17	143.76	144.45	145.24	146.12
56	146.77	146.90	147.20	147.58	148.04	148.60	149.25	150.00	150.85
57	152.06	152.16	152.41	152.74	153.16	153.67	154.28	154.98	155.79
58	157.65	157.72	157.91	158.18	158.55	159.00	159.55	160.20	160.96
59	163.55	163.59	163.71	163.91	164.21	164.60	165.09	165.68	166.37

TABLE 3c
ARTICLE VI
Amendment effective January 1, 1968

Form 100-50 GAC-10

Reference should be made to Section 13 of Article V to determine the correct age and ratio to use in connection with the application of the rates shown above.

Rates for other ages and when the ratio of Employee's Accumulation exceeds 7, will be furnished by the Company when necessary.

IRS-p F60
D-16½303

TABLE 4a

RATES OF CONSIDERATIONS APPLICABLE TO THE PURCHASE OF A REVERSIONARY ANNUITY IN ACCORDANCE WITH SECTION 7 OF ARTICLE III AND TO THE DETERMINATION OF THE LIABILITIES OF THE FUND IN ACCORDANCE WITH SECTION 2 OF ARTICLE III

The rates applicable in the calendar year 1968 shall be the rates shown below. The rates applicable in the calendar year 1969 will be increased ½ % over the rates for 1968, and the rates applicable in each subsequent calendar year will be increased ½ % over the rates for the immediately preceding calendar year.

These Rates Apply to the Contingent Annuitant of an Employee during the joint lifetime of the Contingent Annuitant and Employee.

Amount of Consideration Required on Account of a Contingent Annuitant in one sum in accordance with Sections 2 and 7 of Article III to Provide or Purchase a Reversionary Annuity of \$10 per annum payable to the Contingent Annuitant following the death of the Employee.

TABLE 4a
ARTICLE VI

Form 100-50 GAC-10 Amendment effective January 1, 1968

Age of Contingent Annuitant	Age of Male Employee					Age of Female Employee				
	Male	Female	60	61	62	63	64	65	66	67
55										
56										
57										
58										
59										
60										
61										
62										
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81										
82										
83										
84										
85										
86										
87										
88										
89										
90										
91										
92										
93										
94										
95										
96										
97										
98										
99										
100										

TABLE 4a, ARTICLE VI
Amendment effective January 1, 1968

Reference should be made to Section 13 of Article V to determine the correct age to use in connection with the application of the rates shown above.

Rates for other combinations of ages will be furnished by the Company when necessary.

NS Imm. (Reversionary)

D-16502

TABLE 5a

RATES OF CONSIDERATION APPLICABLE TO THE PURCHASE OF IMMEDIATE ANNUITIES IN ACCORDANCE WITH SECTION 7 OF ARTICLE III AND TO THE DETERMINATION OF THE LIABILITIES OF THE FUND IN ACCORDANCE WITH SECTION 2 OF ARTICLE III WHEN A CERTAIN AND CONTINUOUS OPTION IS IN EFFECT.

The rates applicable in the calendar year 1968 shall be the rates shown below. The rates applicable in the calendar year 1969 will be increased $\frac{1}{2}\%$ over the rates for 1968, and the rates applicable in each subsequent calendar year will be increased $\frac{1}{2}\%$ over the rates for the immediately preceding calendar year.

Amount of Consideration Required on account of an Employee in one Sum in accordance with Sections 2 and 7 of Article III to Provide or Purchase an Immediate Annuity, for a Certain and Continuous Period, the Yearly Amount of which is \$10.

TABLE 5a
ARTICLE VI

Form 100-50 CAC-10 Amendment effective January 1, 1968

Attained Age of Employee											
	Male	Female	20	19	18	17	16	15	14	13	12
50			\$153.95	\$153.00	\$152.10	\$151.24	\$150.43	\$149.67	\$148.95	\$148.28	\$147.65
51			152.35	151.32	150.34	149.41	148.53	147.70	146.93	146.20	145.52
52			150.76	149.65	148.58	147.58	146.62	145.72	144.88	144.09	143.36
53			149.19	147.98	146.83	145.74	144.70	143.73	142.82	141.96	141.17
54			147.63	146.33	145.09	143.91	142.79	141.73	140.74	139.81	138.95
55			146.10	144.70	143.36	142.08	140.87	139.72	138.65	137.64	136.71
56			144.61	143.10	141.65	140.27	138.96	137.72	136.55	135.46	134.45
57			143.15	141.53	139.97	138.48	137.06	135.72	134.45	133.27	132.17
58			141.74	140.00	138.32	136.71	135.18	133.73	132.36	131.07	129.88
59			140.39	138.51	136.71	134.97	133.32	131.75	130.27	128.88	127.58
60			139.09	137.08	135.14	133.28	131.50	129.80	128.20	126.69	125.29
61			137.86	135.72	133.64	131.64	129.72	127.89	126.15	124.52	123.00
62			136.71	134.42	132.20	130.05	127.98	126.01	124.14	122.37	120.72
63			135.65	133.21	130.83	128.53	126.31	124.19	122.17	120.26	118.47
64			134.67	132.08	129.55	127.09	124.71	122.43	120.25	118.19	116.25
65			133.78	131.05	128.36	125.74	123.19	120.75	118.40	116.18	114.08
66			132.98	130.10	127.26	124.48	121.77	119.15	116.63	114.23	111.97
67			132.27	129.26	126.27	123.32	120.44	117.64	114.95	112.37	109.93
68											
69											
70											
71											
72											

TABLE 5a, ARTICLE VI
Amendment effective January 1, 1968

Form 100-50 CAC-10

Attained
Age of
Employee

Male	Female	20	19	18	17	16	15	14	13	12	11
68	73	131.64	128.50	125.37	122.27	119.22	116.24	113.36	110.60	107.98	105.51
69	74	131.10	127.84	124.57	121.32	118.10	114.95	111.88	108.93	106.11	103.45
70	75	130.63	127.26	123.86	120.47	117.09	113.76	110.51	107.36	104.35	101.48
71	76	130.24	126.76	123.25	119.71	116.18	112.68	109.25	105.90	102.68	99.61
72	77	129.90	126.34	122.71	119.05	115.37	111.71	108.10	104.56	101.14	97.85
73	78	129.63	125.98	122.25	118.47	114.66	110.85	107.07	103.34	99.71	96.22
74	79	129.40	125.68	121.87	117.98	114.05	110.09	106.14	102.24	98.41	94.70
75	80	129.22	125.43	121.55	117.57	113.52	109.43	105.33	101.25	97.23	93.32

TABLE 5a
ARTICLE VI
Amendment effective January 1, 1968

Form 100-50 GAC-10

Reference should be made to Section 13 of Article V to determine the application of the rates shown above.

Rates for other attained ages will be furnished by the Company on request of the Employer.

20CC Graded to NS MF Imm

D-16502

TABLE 5a - Continued

RATES OF CONSIDERATION APPLICABLE TO THE PURCHASE OF IMMEDIATE ANNUITIES IN ACCORDANCE WITH SECTION 7 OF ARTICLE III AND TO THE DETERMINATION OF THE LIABILITIES OF THE FUND IN ACCORDANCE WITH SECTION 2 OF ARTICLE III WHEN A CERTAIN AND CONTINUOUS OPTION IS IN EFFECT.

The rates applicable in the calendar year 1968 shall be the rates shown below. The rates applicable in the calendar year 1969 will be increased $\frac{1}{2}\%$ over the rates for 1968, and the rates applicable in each subsequent calendar year will be increased $\frac{1}{2}\%$ over the rates for the immediately preceding calendar year.

Amount of Consideration Required on account of an Employee in one Sum in accordance with Sections 2 and 7 of Article III to Provide or Purchase an Immediate Annuity, for a Certain and Continuous Period, the Yearly Amount of which is \$10.

TABLE 5a
ARTICLE VI

Form 100-50 GAC-10 Amendment effective January 1, 1968

Attained
Age of
Employee

Male	Female	10	9	8	7	6	5	4	3	2	1	NS
50	55	\$146.55	\$146.07	\$145.64	\$145.27	\$144.94	\$144.68	\$144.46	\$144.30	\$144.19	\$144.20	\$144.20
51	56	144.32	143.80	143.33	142.92	142.57	142.27	142.04	141.86	141.74	141.74	141.74
52	57	142.06	141.49	140.99	140.54	140.15	139.83	139.57	139.37	139.24	139.24	139.24
53	58	139.76	139.15	138.60	138.11	137.69	137.34	137.05	136.84	136.69	136.69	136.69
54	59	137.43	136.76	136.17	135.64	135.18	134.80	134.49	134.25	134.10	134.09	134.08
55	60	135.06	134.34	133.70	133.13	132.63	132.22	131.88	131.62	131.45	131.44	131.43
56	61	132.66	131.88	131.19	130.57	130.04	129.58	129.22	128.94	128.76	128.74	128.73
57	62	130.23	129.39	128.63	127.97	127.39	126.90	126.51	126.21	126.00	125.98	125.97
58	63	127.77	126.85	126.04	125.32	124.69	124.16	123.74	123.41	123.20	123.17	123.15
59	64	125.29	124.29	123.40	122.62	121.94	121.37	120.91	120.56	120.33	120.29	120.27
60	65	122.79	121.70	120.73	119.88	119.15	118.53	118.03	117.65	117.39	117.35	117.33
61	66	121.58	120.28	119.10	118.04	117.11	116.30	115.63	115.09	114.67	114.40	114.35
62	67	117.77	116.48	115.32	114.30	113.42	112.68	112.09	111.64	111.34	111.29	111.26
63	68	115.26	113.86	112.60	111.48	110.51	109.70	109.05	108.56	108.23	108.17	108.14
64	69	112.77	111.24	109.86	108.64	107.58	106.69	105.98	105.44	105.08	105.00	104.96
65	70	112.12	110.30	108.64	107.14	105.81	104.65	103.67	102.88	102.28	101.89	101.80
66	71	107.88	106.07	104.44	102.98	101.72	100.65	99.78	99.12	98.68	98.58	98.53

Form 100-50 GAC-10

TABLE 5a. ARTICLE VI
Amendment effective January 1, 1968

Attained
Age of
Employee

Male	Female	10	9	8	7	6	5	4	3	2	1	NS
67	72	105.51	103.55	101.77	100.19	98.81	97.64	96.69	95.97	95.48	95.36	95.30
68	73	103.20	101.08	99.15	97.43	95.92	94.65	93.61	92.82	92.29	92.16	92.09
69	74	100.96	98.67	96.58	94.70	93.07	91.68	90.54	89.68	89.10	88.95	88.88
70	75	98.80	96.32	94.05	92.02	90.23	88.72	87.48	86.54	85.90	85.73	85.65
71	76	96.72	94.04	91.58	89.38	87.43	85.78	84.42	83.39	82.69	82.50	82.41
72	77	94.75	91.85	89.20	86.80	84.68	82.88	81.40	80.26	79.49	79.28	79.18
73	78	92.89	89.78	86.90	84.30	82.00	80.03	78.41	77.17	76.33	76.09	75.97
74	79	91.16	87.81	84.72	81.90	79.40	77.25	75.49	74.13	73.20	72.93	72.80
75	80	89.55	85.98	82.65	79.60	76.89	74.55	72.62	71.13	70.12	69.83	69.68

Reference should be made to Section 13 of Article V to determine the application of the rates shown above.

Rates for other attained ages will be furnished by the Company on request of the Employer.

200C. Graded to NS MF Imm

ID 16502

TABLE 5a
ARTICLE VI
Amendment effective January 1, 1968

Form 100-50 GAC-10

TABLE 6a

RATES OF CONSIDERATIONS APPLICABLE TO THE PURCHASE OF IMMEDIATE ANNUITIES CERTAIN IN ACCORDANCE WITH SECTION 7 OF ARTICLE III AND TO THE DETERMINATION OF THE LIABILITIES OF THE FUND IN ACCORDANCE WITH SECTION 2 OF ARTICLE III WHEN A CERTAIN AND CONTINUOUS OPTION IS IN EFFECT.

The rates applicable in the calendar year 1968 shall be the rates shown below. The rates applicable in the calendar year 1969 will be increased $\frac{1}{2}\%$ over the rates for 1968, and the rates applicable in each subsequent calendar year will be increased $\frac{1}{2}\%$ over the rates for the immediately preceding calendar year.

Amount of Consideration Required on account of the Beneficiary of an Employee in one sum in accordance with Sections 2 and 7 of Article III to Provide or Purchase an Immediate Annuity Certain, the Yearly Amount of which is \$10.

Number of Years for which payments are to be made	Consideration
0	\$ 5.05
1	14.79
2	24.06
3	32.90
4	41.31
5	49.32
6	56.95
7	64.22
8	71.14
9	77.73
10	84.01
11	89.99
12	95.68
13	101.11
14	106.27
15	111.19

TABLE 6a
ARTICLE VI

Form 100-50 GAC-10 Amendment effective January 1, 1968

16	115.88
17	120.34
18	124.59
19	128.63
20	132.49

Ann. Cert. Imm. 0-00502

Reference should be made to Section 13 of Article V to determine the correct rate to use.

TABLE 7a

RATES OF CONSIDERATIONS APPLICABLE TO THE PURCHASE OF AN IMMEDIATE TEMPORARY ANNUITY IN ACCORDANCE WITH SECTION 7 OF ARTICLE III AND TO THE DETERMINATION OF THE LIABILITIES OF THE FUND IN ACCORDANCE WITH SECTION 2 OF ARTICLE III

The rates applicable in the calendar year 1968 shall be the rates shown below. The rates applicable in the calendar year 1969 will be increased $\frac{1}{2}\%$ over the rates for 1968, and the rates applicable in each subsequent calendar year will be increased $\frac{1}{2}\%$ over the rates for the immediately preceding calendar year.

These Amounts Apply to an Employee Whose Social Security Commencement Date is the first day of the Month Coincident with or Next following his Sixty-Fifth Birthday.

Amount of Consideration Required on account of an Employee in one sum in accordance with Sections 2 and 7 of Article III to Provide or Purchase a Temporary Annuity, the yearly amount of which is \$10.

TABLE 7a
ARTICLE VI

Form 100-50 GAC-10 Amendment effective January 1, 1968

Attained Age of Employee	No Death Benefit	Ratio of Death Benefit to Retirement Annuity of a Male Employee	0	1	2	3	4	5	6	7
55	\$74.11	\$74.13	\$74.21	\$74.39	\$74.65	\$75.01	\$75.47	\$76.02	\$76.68	
56	67.99	68.01	68.10	68.29	68.58	68.97	69.47	70.07	70.77	
57	61.56	61.58	61.68	61.89	62.20	62.62	63.16	63.81	64.57	
58	54.79	54.82	54.92	55.15	55.48	55.94	56.52	57.22	57.92	
59	47.65	47.68	47.80	48.04	48.40	48.90	49.52	49.52	49.52	
60	40.12	40.15	40.27	40.53	40.93	41.46	41.46	41.46	41.46	
61	32.14	32.17	32.31	32.59	33.02	33.02	33.02	33.02	33.02	
62	23.68	23.72	23.86	24.17	24.17	24.17	24.17	24.17	24.17	
63	14.67	14.73	14.89	14.89	14.89	14.89	14.89	14.89	14.89	
64	5.12	5.00	5.00	5.00	5.00	5.00	5.00	5.00	5.00	
65	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	

TABLE 7a
ARTICLE VI
Amendment effective January 1, 1968

Form 100-50 GAC-10

Attained Age of Employee	No Death Benefit	Ratio of Death Benefit to Retirement Annuity of a Female Employee	0	1	2	3	4	5	6	7
50	\$102.91	\$102.91	\$102.94	\$103.00	\$103.10	\$103.23	\$103.40	\$103.61	\$103.87	
51	97.88	97.89	97.92	97.99	98.10	98.25	98.44	98.68	98.96	
52	92.63	92.64	92.68	92.76	92.88	93.04	93.26	93.52	93.84	
53	87.14	87.15	87.20	87.28	87.42	87.60	87.84	88.14	88.49	
54	81.40	81.41	81.46	81.56	81.71	81.92	82.18	82.51	82.90	
55	75.39	75.40	75.45	75.56	75.73	75.96	76.25	76.61	77.04	
56	69.09	69.10	69.16	69.28	69.46	69.72	70.04	70.44	70.91	
57	62.47	62.49	62.55	62.69	62.89	63.17	63.52	63.96	64.47	
58	55.53	55.54	55.62	55.76	55.99	56.29	56.68	57.15	57.15	
59	48.22	48.24	48.32	48.48	48.72	49.06	49.48	49.48	49.48	
60	40.53	40.55	40.63	40.81	41.07	41.43	41.43	41.43	41.43	
61	32.41	32.43	32.52	32.71	33.00	33.00	33.00	33.00	33.00	
62	23.23	23.85	23.95	24.16	24.16	24.16	24.16	24.16	24.16	
63	14.74	14.77	14.88	14.88	14.88	14.88	14.88	14.88	14.88	
64	5.11	5.00	5.00	5.00	5.00	5.00	5.00	5.00	5.00	
65	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	

TABLE 7a
ARTICLE VI
Amendment effective January 1, 1968

Form 100-50 GAC-10

Reference should be made to Section 13 of Article V to determine the correct age and ratio to use in the application of the rates shown above.

When the ratio of death benefit to Retirement Annuity exceeds 7, rates will be furnished by the Company when necessary.

RS-n MF Imm. T65
D-16502

TABLE 7a - Continued

RATES OF CONSIDERATIONS APPLICABLE TO THE PURCHASE OF AN IMMEDIATE TEMPORARY ANNUITY IN ACCORDANCE WITH SECTION 7 OF ARTICLE III AND TO THE DETERMINATION OF THE LIABILITIES OF THE FUND IN ACCORDANCE WITH SECTION 2 OF ARTICLE III

The rates applicable in the calendar year 1968 shall be the rates shown below. The rates applicable in the calendar year 1969 will be increased $\frac{1}{2}\%$ over the rates for 1968, and the rates applicable in each subsequent calendar year will be increased $\frac{1}{2}\%$ over the rates for the immediately preceding calendar year.

These Amounts Apply to an Employee Whose Social Security Commencement Date is the first day of the Month coincident with or next following his Sixty-Second Birthday.

Amount of Consideration required on account of an Employee in one sum in accordance with Sections 2 and 7 of Article III to Provide or Purchase a Temporary Annuity, the yearly amount of which is \$10.

TABLE 7a
ARTICLE VI

Form 100-50 CAC-10 Amendment effective January 1, 1968

Attained Age of Employee	No Death Benefit	Ratio of Death Benefit to Retirement Annuity of a Male Employee	4	5	6	7
55	\$55.26	\$55.28	\$55.36	\$55.54	\$56.16	\$57.18
56	48.02	48.04	48.13	48.32	49.00	49.49
57	40.38	40.40	40.50	40.71	41.44	41.44
58	32.31	32.34	32.45	32.67	33.01	33.01
59	23.78	23.80	23.92	24.16	24.16	24.16
60	14.73	14.76	14.88	14.88	14.88	14.88
61	5.12	5.00	5.00	5.00	5.00	5.00
62	0.00	0.00	0.00	0.00	0.00	0.00
Attained Age of Employee	No Death Benefit	Ratio of Death Benefit to Retirement Annuity of a Female Employee	4	5	6	7
50	\$87.93	\$87.94	\$87.97	\$88.03	\$88.12	\$88.19
51	82.11	82.12	82.15	82.22	82.33	82.47
52	76.01	76.02	76.06	76.14	76.26	76.42
53	69.62	69.63	69.68	69.76	69.90	70.08
54	62.92	62.93	62.98	63.08	63.23	63.44
55	55.89	55.90	55.95	56.06	56.23	56.46
56	48.50	48.51	48.57	48.69	48.88	49.13
57	40.72	40.74	40.80	40.93	41.14	41.42
58	32.53	32.55	32.62	32.77	32.99	32.99
59	23.89	23.91	23.99	24.15	24.15	24.15
60	14.77	14.79	14.87	14.87	14.87	14.87
61	5.11	5.00	5.00	5.00	5.00	5.00
62	0.00	0.00	0.00	0.00	0.00	0.00

Form 100-50 CAC-10

TABLE 7a, ARTICLE VI

Amendment effective January 1, 1968

Reference should be made to Section 13 of Article V to determine the correct age and ratio to use in the application of the rates shown above.

When the ratio of death benefit to Retirement Annuity exceeds 7, rates will be furnished by the Company when necessary.

RS-n MF Imm. T62
D-16502

TABLES 2b, 3b, 4b, 5b, 6b, and 7b

Tables 2b, 3b, 4b, 5b, 6b and 7b are analogous to Tables 2a, 3c, 4a, 5a, 6a and 7a, respectively. Values are not shown in the Contract, but will be supplied if necessary.

The rates will be determined in the following manner:

Retirement Annuities purchased on the July, 1938 and on the March 1941 rate basis:

The 1937 Standard Annuity Table (Males) unrated for males and rated at an age five years younger for females, with no loading, and interest at $2\frac{1}{2}\%$.

Retirement Annuities purchased on the October, 1959 Rate Basis:

The Group Annuity Table of 1951 (Males), projected to 1959 by Scale C and rated at an age one year younger for males and six years younger for females, with no loading, and interest at 3% .

TABLES 2c, 4c, 5c, 6c and 7c

Tables 2c, 4c, 5c, 6c and 7c are analogous to Tables 2a, 4a, 5a, 6a and 7a, respectively. Values are not shown in the Contract, but will be supplied if necessary.

The rates will be determined in the following manner;

The Considerations computed on the basis of the Group Annuity Table for 1951 (Males), projected to 1959 by Scale C and rated at an age one and one-half years younger for males and six and one-half years younger for females, with a 3% loading, and interest at 3% .

ARTICLE VI

Form 100-50 GAC-10 Amendment effective January 1, 1968

AMENDMENT to be attached to and made a part of
Group Annuity Contract No. 50 GAC issued by the
JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY
covering certain employees of

SPERRY RAND CORPORATION

It is understood and agreed that, effective April 1, 1969, the following modifications and alterations are hereby made in the conditions and provisions of this Contract:

1. ARTICLE I. DEFINITIONS. The following changes are made in this Article:

In Definition 12 the following sentence is added to the end of and made a part of this Definition:

"The term 'Restricted Portion' means that portion of the Pension Administration Fund in which payments made by the Employer in accordance with the Post-Retirement Medical Benefits Plan are to be accumulated."

In Definition 17 the words "in excess of the Restricted Portion" are inserted immediately following the words "amount in the Pension Administration Fund".

2. ARTICLE III. CONSIDERATIONS. The following changes are made in this Article:

Section 1. Contributions to the Pension Administration Fund and the Supplemental Fund. The following changes are made in this Section:

The following changes are made in the portion of the first paragraph described as "Minimum Limitations":

In item (i) the words "in excess of the Restricted Portion" are inserted immediately following the words "the amount in the Fund".

Form 100-50 GAC-11

Amendment effective April 1, 1969

In item (ii) the words "in excess of the Restricted Portion" are inserted immediately following the words "the amounts in the Fund".

The following paragraph is added immediately following the fourth paragraph of this Section:

"In addition to amounts added to the Fund in accordance with the third paragraph of this Section, the Employer may make additional payments during each Contract Year to the Restricted Portion of the Fund in amounts determined by the Employer in accordance with the Post-Retirement Medical Benefits Plan and agreed to by the Company."

Section 2. Pension Administration Fund. The following changes are made in this Section:

In the second sentence of the first paragraph the words "in excess of the Liabilities of the Fund" are stricken out and the words "in excess of the sum of the Liabilities of the Fund and the Restricted Portion" are substituted therefor.

In the second sentence of the second paragraph in the two instances in which they appear the words "exceed the Liabilities of the Fund" are stricken out and the words "exceed the sum of the Liabilities of the Fund and the Restricted Portion" are substituted therefor.

In the third sentence of the second paragraph the words "the Company determines that the amount in the Fund and" are stricken out and the words "the Company determines that the amount in the Fund in excess of the Liabilities of the Fund and the Restricted Portion plus" are substituted therefor.

In the third sentence of the second paragraph the words "then a contribution sufficient to make the amounts in the Fund and in the" are stricken out and the words "then a Contribution sufficient to make the amounts in the Fund in excess of the Liabilities of the Fund and the Restricted Portion plus" are substituted therefor.

The following item is added to and made a part of the third paragraph:

"(e) Upon receipt by the Company at its Home Office of written notice from the Employer that an employee has retired and is entitled to benefits under the Post-Retirement Medical Benefits Plan the Company will deduct from the Restricted Portion, to the extent it is sufficient, the amount requested by the Employer and shall pay such amount to the insurance company or trustee as directed by the Employer. Any such payment shall fully discharge any and all liability of the Company with respect to such deduction from the Restricted Portion of the Fund."

Section 7. Discontinuance of Payment of Contributions and Termination of the Pension Administration Fund. The following changes are made in this Section:

In item (a) of the third paragraph the words "exceed the Liabilities of the Fund." are stricken out and the words "exceed the sum of the Liabilities of the Fund and the Restricted Portion."

The following is added to the end of the fourth and sixth paragraphs:

"The Restricted Portion, if any, shall be deducted from the Fund and the Company shall pay or apply such amount in a manner to be determined by mutual agreement between the Employer and the Company."

The following paragraph is added to the end of this Section:

"If at the time the Employer advises the Company that all benefits to be provided under the Post-Retirement Medical Benefits Plan have been provided there is a balance remaining in the Restricted Portion, the Company shall pay such amount to the Employer."

Section 9. Transfer of Pension Administration Fund. The following changes are made in this Section:

The following sentence is added to the end of and made a part of the ninth paragraph:

"The provisions of this Section may also apply separately to the Restricted Portion of the Fund."

The following change is made in the first sentence of the tenth paragraph:

The words "in excess of the Restricted Portion" are inserted immediately following the words "Transferable Balance from the Fund."

Boston, Massachusetts

JOHN HANCOCK MUTUAL LIFE
INSURANCE COMPANY

/s/ Kenneth F. Mac Iver, Secretary

Date: October 27, 1970

Countersigned by:

/s/ Thomas H. Hogan Jr.

Registrar

New York, New York

SPERRY RAND CORPORATION

Date: June 12, 1970

By /s/ [name illegible]
Vice President & Treasurer

AMENDMENT to be attached to and made a part of
Group Annuity Contract No. 50 GAC issued by the
JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY
covering certain employees of

SPERRY RAND CORPORATION

It is understood and agreed that, effective April 3, 1969, the following modifications and alterations are hereby made in Section 6 of Article IV of this Contract:

In sub-section A. of I the words "the employee may elect one of the following Options:" are stricken out and the following is substituted therefor:

"the employee may elect one of the following options; provided, however, item 2 of (a) will be applicable only in the case of an employee of the Ford Instrument Division of Sperry Rand Corporation whose Termination of Employment Date occurs subsequent to April 3, 1969 for reasons other than death or transfer, as determined by the Retirement Committee and who on or before such Termination of Employment Date meets the vesting requirements described in (i) or (ii) of (b) below:"

Item (a) of sub-section A. of I is cancelled and annulled and the following is substituted therefor.

- "(a) 1. A cash surrender value equal to his Employee's Accumulation.
2. A cash surrender value equal to his Employee's Accumulation. Such employee shall be entitled also to have a yearly amount of Normal Retirement Annuity provided for him on his Normal Retirement Date equal to the excess of (i) over (ii) below.

- (i) The yearly amount of Normal Retirement Annuity purchased on his account which was cancelled on January 1, 1968.
- (ii) The yearly amount of Normal Retirement Annuity which could be provided on the basis of Table 1 of Article VI by his Employee's Accumulation on his Normal Retirement Date."

Item (ii) of (b) of sub-section A. of I is cancelled and the following is substituted therefor:

"(ii) met the vesting requirements as determined by the Retirement Committee in accordance with the Plan,

the yearly amount of Normal Retirement Annuity to be provided shall be equal to the yearly amount of Normal Retirement Annuity purchased on his account which was cancelled on January 1, 1968."

In the second paragraph of sub-section C. of I the words "to his beneficiary." are stricken out and the following is substituted therefor:

"to his beneficiary, unless item 2. of (a) of sub-section A. was applicable on his Termination of Employment Date."

APPROVED
STATE OF NEW YORK

Date
Illegible

Boston, Massachusetts

JOHN HANCOCK MUTUAL LIFE
INSURANCE COMPANY

/s/ Kenneth F. Mac Iver, Secretary

Date: February 26, 1971

Countersigned by

/s/ Thomas H. Hogan Jr
Registrar

New York, New York

SPERRY RAND CORPORATION

Date: December 3, 1970

By /s/ [name illegible]
Vice President and Treasurer

APPROVED
STATE OF NEW YORK
[Date illegible]
[Signature illegible]
SUPERINTENDENT OF INSURANCE

AMENDMENT to be attached to and made a part of
Group Annuity Contract No. 50 GAC issued by the
JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY
covering certain employees of

SPERRY RAND CORPORATION

WHEREAS, certain employees of the Employer employed by the Sperry Gyroscope Division and Sperry Systems Management Division of Sperry Rand Corporation included under the Sperry Rand Retirement Program on June 30, 1970 will become represented by the Engineers Union (IUE) on July 1, 1970, and

WHEREAS, the Employer desires that such employees be included under Group Annuity Contract No. 1150 GAC issued by the Company to the Employer,

NOW THEREFORE, it is understood and agreed that, effective July 1, 1970, all liability with respect to Retirement Annuities in effect hereunder on account of such employees who are in the active employ of the Employer on such date, is transferred to Group Annuity Contract No. 1150 GAC. An amount, as determined by the Employer, equal to the sum of (i) a portion of the amount of the Liabilities of the Fund attributable to the Retirement Annuities so transferred, (ii) a portion of the "Restricted Portion" of the fund attributable to such employees and (iii) a portion of the balance in the fund, if any, of the excess of the Liabilities of the Fund and the Restrictive Portion of the Fund attributable to such employees, shall be transferred to the Pension Administration Fund under Group Annuity Contract No. 1150 GAC. A portion, as determined by the Employer, of the Supplemental Fund attributable to such employees shall be transferred to the Supplemental Fund under Group Annuity Contract No. 1150 GAC. A portion, as determined by the Company of the Contingency Account attributable to the Retirement Annuity so transferred, shall be transferred to Group Annuity Contract No. 1150 GAC. The Company shall have no liability hereunder with respect to the amounts so transferred.

Boston, Massachusetts

JOHN HANCOCK MUTUAL LIFE
INSURANCE COMPANY

/s/ Kenneth F. Mac Iver, Secretary

Date: February 8, 1971

Countersigned by:

/s/ Thomas H. Hogan Jr.

Registrar

New York, New York

SPERRY RAND CORPORATION

Date: December 31, 1970

By /s/ [name illegible]

Vice President and Treasurer

APPROVED
STATE OF NEW YORK
[Date illegible]
[Signature illegible]
SUPERINTENDENT OF INSURANCE

AMENDMENT to be attached to and made a part of
Group Annuity Contract No. 50 GAC issued by the
JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY
covering certain employees of

SPERRY RAND CORPORATION

It is understood and agreed that, effective January 1, 1975, the following modifications and alterations are hereby made in the conditions and provisions of ARTICLE III of this Contract:

The title of this ARTICLE is changed to "ARTICLE III CONTRIBUTIONS".

SECTION 4. Payment of Contributions. The following paragraph is inserted immediately following the first paragraph:

"Notwithstanding anything contained herein to the contrary, any Contribution required or permitted to be paid hereunder by the Employer may be made on behalf of the Employer by another insurance company or trustee funding all or a portion of the benefits provided under the Plan. Payment made by another insurance company or trustee shall be regarded for all purposes of this Contract as if made by the Employer. Such other insurance company or trustee shall not be a party to this Contract and shall have no interest therein. The Company shall be under no obligation in event of failure of such other insurance company or trustee to pay any Contribution required of the Employer in accordance with the terms of this Contract or in event of any failure by the Employer to furnish any directions to another insurance company, it being understood and agreed that this paragraph shall not diminish or change the responsibility of the Employer for any action required by it under this Contract."

SECTION 10. Supplemental Fund: Item (ii) of Sub-section D. of this Section is cancelled and annulled and the following is substituted therefor:

Form 100-50 GAC-14 Amendment effective January 1, 1975

"(ii) *Transfer to Another Insurance Company or Trustee*

The Company will, upon notice from the Employer, withdraw a portion of or the entire balance in the Supplemental Fund after making all adjustments thereto on or before the date of withdrawal in accordance with sub-section B of this Section, and pay such amount to an insurance company or trustee, designated by the Employer, provided such notice also specifies the three conditions set forth in the first paragraph of Section 9 of this Article.

Notwithstanding anything contained herein to the contrary, discontinuance of payment of Contributions shall be deemed to have occurred on the first day of the calendar month next following the transfer of the entire balance of the Supplemental Fund to another insurance company or trustee in accordance with this Section, unless the Company and the Employer agree otherwise, in writing, prior to the date of such transfer."

Boston, Massachusetts

JOHN HANCOCK MUTUAL LIFE
INSURANCE COMPANY

/s/ J.G. McElwee, Secretary

Date: September 10, 1975

Form 100-50 GAC-14 Amendment effective January 1, 1975

JA-222

Countersigned by:

/s/ Michael B. O'Toole

Registrar

New York, New York SPERRY RAND CORPORATION

Date: July 29, 1975 By /s/ [name illegible]
Assistant Treasurer

APPROVED
STATE OF NEW YORK
[Date illegible]
[Signature illegible]
SUPERINTENDENT OF INSURANCE

JA-223

AMENDMENT to be attached to and made a part of
Group Annuity Contract No. 50 GAC issued by the
JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY
covering certain employees of

SPERRY RAND CORPORATION

It is understood and agreed that, effective June 30, 1976, the following modifications and alterations are hereby made in the conditions and provisions of this Contract:

1. Cover Page: The fourth paragraph is cancelled and annulled and the following paragraph is substituted therefor:
"Payment made to the Separate Funds shall participate directly in the investment experience of the Separate Funds in Separate Investment Account Number 18."

2. ARTICLE I: The following changes are made in this ARTICLE:

Definition 11. The following sentence is added to and made a part of this Definition:

"At the time each such Contribution is made to the Company the Sperry Rand Retirement Committee shall advise the Company as to the portion of such Contribution to be added to the Pension Administration Fund and the portion to be added to Separate Investment Account Number 18."

Definition 13. The following is added to and made a part of this Definition:

"On June 30, 1976, the balance in the Supplemental Fund shall be transferred to Separate Investment Account Number 18 in such manner and amounts as may be mutually agreed upon between the Company and the Sperry Rand Retirement Committee. On the date of such transfer the Supplemental Fund shall cease to exist."

Definition 14. Effective June 30, 1976, this Definition is cancelled and annulled and the following is substituted therefor:

"Definition 14. Separate Investment Account Number 18. Separate Investment Account Number 18 means the Separate Investment Account maintained by the Company, in accordance with applicable law, for this Contract and for Group Annuity Contracts No. 1150GAC, No. 1151GAC, No. 1152GAC and No. 1153GAC issued by the Company to the Employer. Within Separate Investment Account Number 18, the Company shall establish and make available for use by the Sperry Rand Retirement Committee one or more investment classes to which Contributions under this Contract may be assigned. Wherever the term 'Separate Investment Account Number 18' is used in this Contract such term shall mean the portion of Separate Investment Account Number 18 which is attributable to this Contract, as determined by the Company."

APPROVED
STATE OF NEW YORK
[Date illegible]
[Signature illegible]
SUPERINTENDENT OF INSURANCE

The following definition is added immediately following Definition 14.

"Definition 14A 'Separate Fund' means any one of the investment classes which the Company shall establish and make available for use by the Sperry Rand Retirement Committee in Separate Investment Account Number 18 to which Contributions under this Contract may be assigned."

Definition 26. This definition is cancelled and annulled and the following is substituted therefor:

"Definition 26. The term 'Sperry Rand Retirement Committee' means the 'Named Fiduciary' or the 'Administrator', whichever is applicable, as described in the Plan. The Company shall be entitled to rely on notices, forms or other correspondence supplied by the Sperry Rand Retirement Committee or its delegated or authorized representatives as reported to the Company from time to time. The Company shall be liable only for the obligations contained in this Contract and shall have no responsibility whatsoever to ascertain the propriety of any action taken at any time by the Sperry Rand Retirement Committee. The Employer shall notify the Company of the names of the members of the Sperry Rand Retirement Committee and the Company shall be entitled to rely on signatures of those persons until such time as the Employer notifies the Company of changes in membership of the Sperry Rand Retirement Committee.

Wherever the term 'Retirement Committee' appears herein it shall be deemed to mean 'Sperry Rand Retirement Committee'."

3. ARTICLE III. CONTRIBUTIONS: The following changes are made in this ARTICLE:

SECTION 1. Contributions to the Pension Administration Fund and the Supplemental Fund: The heading of this Section is cancelled and annulled and the following heading is substituted therefor:

"SECTION 1. Contributions to the Group Annuity Contract"

The second and third paragraphs of this Section are cancelled and the following paragraphs are substituted therefor:

"The aggregate amount of Contributions to be paid to the Company by the Employer in each Contract Year or portion thereof on and after January 1, 1968 may, within the limitations set forth herein, be paid at such times during the Contract Year as the Employer determines.

Except as may otherwise be agreed to in writing between the Employer and the Company, the aggregate amount of Contributions to be paid to the Company by the Employer in each Contract Year or portion thereof on and after January 1, 1968 shall be as determined by the Employer within the limitations and subject to the conditions set forth herein. The aggregate amount of such Contributions, including amounts added to the Fund or the Separate Investment Account Number 18 during such Contract Year or portion thereof in accordance with Section 7 of Article V shall not exceed the amount specified below under the heading 'Maximum Limitation' and shall not be less than the amount specified below under the heading 'Minimum Limitation'.

Maximum Limitation

The sum of (i) twice the amount which the Company estimates is necessary for normal costs for such Contract Year on account of employees included under the Plan who have not attained their Annuity Commencement Dates at the commencement of such Contract Year, and (ii) 20% of any past service costs attributable to any increases in benefits to employees provided by amendments to the Plan and determined on the effective dates of each such amendment.

Minimum Limitation

The amount which the Company determines is necessary to increase the Fund and Separate Investment Account Number 18 so that

- (i) the amount in the Fund in excess of the Restricted Portion will equal the Liabilities of the Fund at all times during such Contract Year, and
- (ii) the amounts in the Fund in excess of the Restricted Portion and in Separate Investment Account Number 18 together will equal 105% of the Liabilities of the Fund at all times during such Contract Year.

As used in this paragraph

- (iii) normal costs for any year are the current service costs applicable to such year of the Retirement benefits which the Company estimates may become payable under this Contract, and
- (iv) past service cost at any time with respect to employees who have not attained their Annuity Commencement Dates is the amount which would be required at such time to meet the cost of all the retirement benefits which the Company estimates may become payable under this Contract to such employees and which would not be met by future normal costs."

SECTION 2. Pension Administration Fund: The following changes are made in this Section: The following changes are made in the first paragraph:

In the second sentence the word "Employer" is stricken out and the words "Employer or the Sperry Rand Retirement Committee or both, as applicable", are substituted therefor.

In the third sentence the words "Supplemental Fund" are stricken out and the words "Separate Investment Account Number 18." are substituted therefor.

The following changes are made in the second paragraph:

Wherever the words "Supplemental Fund" appear they are stricken out and the words "Separate Investment Account Number 18" are substituted therefor.

In the first sentence the word "Employer" is stricken out and the words "Sperry Rand Retirement Committee" are substituted therefor.

In the second and third sentences the word "Employer" is stricken out and the words "Employer or the Sperry Rand Retirement Committee or both, as applicable," are substituted therefor.

SECTION 3. Adjustments to the Pension Administration Fund: In the fourth paragraph the words "Supplemental Fund" are stricken out and the words "Separate Investment Account No. 18." are substituted therefor.

SECTION 6. Suspension of Payment of Contributions. In the first paragraph of this Section wherever the words "Supplemental Fund" appear they are stricken out and the words "Separate Investment Account Number 18" are substituted therefor.

SECTION 7. Discontinuance of Payment of Contributions and Termination of the Pension Administration Fund: The following changes are made in this Section:

In the third, sixth and eighth paragraphs of this Section wherever the words "Supplemental Fund" appear they are stricken out and the words "Separate Investment Account Number 18" are substituted therefor.

The following changes are made in the third paragraph:

In the wording immediately preceding item (a) the word "Employer" is stricken out and the words "Employer or the Sperry Rand Retirement Committee, as applicable," are substituted therefor.

In item (a) the word "Employer" is stricken out and the words "Employer or the Sperry Rand Retirement Committee, as applicable," are substituted therefor.

In item (c) the word "Employer" is stricken out and the words "Sperry Rand Retirement Committee" are substituted therefor.

In the third sentence of the fifth paragraph the word "Employer" is stricken out and the words "Sperry Rand Retirement Committee" are substituted therefor.

In the sixth paragraph the word "Employer" is stricken out and the words "Employer or the Sperry Rand Retirement Committee or both, as applicable," are substituted therefor.

In the eighth paragraph in the two instances in which the word "Employer" appears it is stricken out and the words "Sperry Rand Retirement Committee" are substituted therefor.

In the second sentence of the ninth paragraph the word "Employer" is stricken out and the words "Employer or the Sperry Rand Retirement Committee or both, as applicable," are substituted therefor.

SECTION 8. Continuation of Plan with Another Carrier: The following changes are made in this Section:

In the first paragraph the words preceding item (a) are stricken out and the following is substituted therefor.

"If within ninety days following the discontinuance of the payment of Contributions in accordance with Section 7 of this Article the Company receives written notice at its Home Office from the Employer or the Sperry Rand Retirement Committee, as applicable, specifying"

In item (c) the word "Employer" is stricken out and the words "Employer or the Sperry Rand Retirement Committee, as applicable," are substituted therefor.

The following changes are made in the second paragraph:

In item (d) the word "Employer" in the first instance in which it appears is stricken out and the following is substituted therefor:

"Employer or the Sperry Rand Retirement Committee, as applicable,"

In item (e) the word "Employer" in the second instance in which it appears is stricken out and the words "Employer or the Sperry Rand Retirement Committee, as applicable," are substituted therefor.

SECTION 9. Transfer of Pension Administration Fund. The following changes are made in this Section:

The following changes are made in the first paragraph:

The words immediately preceding item (a) are stricken out and the following is substituted therefor:

"If the Employer or the Sperry Rand Retirement Committee, as applicable, files with the Company at its Home Office written notice specifying"

In item (c) the word "Employer" is stricken out and the words "Employer or the Sperry Rand Retirement Committee, as applicable," are substituted therefor.

In the second, fifth, ninth and eleventh paragraphs the word "Employer" is stricken out and the following is substituted therefor:

"Sperry Rand Retirement Committee"

In the seventh paragraph in the two instances in which the word "Employer" appears it is stricken out and the words "Sperry Rand Retirement Committee" are substituted therefor.

The following changes are made in the tenth paragraph:

In the first sentence the word "Employer" is stricken out and the following is substituted therefor:

"Sperry Rand Retirement Committee"

In the first sentence the words "Supplemental Fund" are stricken out and the words "Separate Investment Account Number 18" are substituted therefor.

In the twelfth paragraph wherever the word "Employer" appears it is stricken out and the following is substituted therefor:

"Sperry Rand Retirement Committee"

SECTION 10. Supplemental Fund: This Section is cancelled and annulled and the following is substituted therefor:

"SECTION 10. Separate Funds

The Sperry Rand Retirement Committee may establish a Separate Fund in each of the Investment classes offered by the Company in Separate Investment Account Number 18. The Company may, from time to time, offer new investment classes and may withdraw existing investment classes with respect to future Contributions.

The Sperry Rand Retirement Committee shall, in a written notice, specify the Separate Funds to be maintained under this Contract and the portion of the Contributions to be added to each Separate Fund. Such instructions may be changed from time to time by the Sperry Rand Retirement Committee by filing written notice with the Company at least 90 days before the change is to be effective.

The balance in each Separate Fund on any date is equal to the sum of all additions to the fund less all withdrawals from the fund as described below.

Additions to a Separate Fund consist of Contributions added to the fund, transfers to the fund, and adjustments for investment income. Withdrawals from a Separate Fund consist of amounts withdrawn from the fund for transfer out of the fund and adjustments withdrawn for expenses including taxes and capital losses.

Contributions. The Sperry Rand Retirement Committee shall determine the portion of the aggregate amount of

Contributions paid to the Company by the Employer in each Contract Year to be included in each Separate Fund exclusive of amounts transferred from the Supplemental Fund, subject to the limitations that the total amount of Contributions to be added to all such Separate Funds in each such Contract Year shall not exceed the maximum amount which could be paid into the Pension Administration Fund.

Contributions added to the Separate Funds shall be in addition to and separate from the Contributions added to the Pension Administration Fund.

Adjustments on Account of Investment Experience and Expenses Including Taxes. As of the last business day of each month, the Company shall make adjustments to each of the Separate Funds in the manner described below for the investment income, capital gains and losses, and expenses including taxes to be added to or withdrawn from the fund for such month. In lieu of making adjustments as of the last business day of each month, adjustments may be made on other dates as determined by the Company. The amount of each adjustment on account of investment experience and expenses including taxes shall be determined by the Company in accordance with its regular procedure applicable to contracts of this class and in effect at the time such adjustments are to be made. Any such determination shall be conclusive for the purposes of this Contract.

For the purposes of allocating the investment experience of Separate Investment Account Number 18 to the Separate Funds, each investment class within the Separate Investment Account Number 18 will be valued at the end of each month on the basis of the market value of the individual assets held in such account. If there is no readily available market value of the individual assets, the Company will determine a fair value in accordance with generally accepted practices.

Investment Income. Adjustments made for the investment income to be added to each Separate Fund as of the last business day of each month shall be equal to the Separate Fund's share, after providing for any specific charges made by the Company against such income for all contracts of this class, of the net investment income for such month.

Capital Gains and Losses. Adjustments made to each Separate Fund for the capital gains and losses, realized and unrealized, as the case may be, on the last business day of each month shall, except as noted below, be the Separate Fund's share of the capital gains and losses, after providing for any specific charges or credits made by the Company against such capital gains and losses, realized and unrealized, for such month.

Expenses. Adjustments made for expenses including taxes to be withdrawn from each Separate Fund as of the last business day of each month shall be the Separate Fund's share of the expenses including taxes for such month, as determined by the Company in accordance with its regular procedures applicable to Separate Funds included in other contracts issued by the Company which fall in the same classification as this Contract and which are in effect at the time such determination is made, and such determination shall be conclusive for the purposes of this Contract.

In determining the adjustments to the Separate Funds as of any date, the Company may estimate the amount of such adjustments. Correcting charges or credits shall be made to such estimated adjustments by the Company as soon as practicable provided, however, any estimated adjustments used in determining the balance in any Separate Fund on the date the fund ceases to exist shall be conclusive for the purposes of this Contract and shall not be subject to modification.

SECTION 11. Transfer of Separate Funds

Amounts may be transferred

- (a) from the Separate Funds to the Pension Administration Fund
- (b) from the Separate Funds to another insurance company or trustee, designated by the Sperry Rand Retirement Committee, provided such notice also specifies the three conditions set forth in the first paragraph of Section 9 of this Article,
- (c) between two or more Separate Funds

upon written notice from the Sperry Rand Retirement Committee specifying the Transfer Date, the amount to be transferred and the Separate Funds from which the transfer is to be made. Any such transfer shall be subject to the following conditions:

- 1. Unless otherwise alternatively agreed upon between the Sperry Rand Retirement Committee and the Company, the Transfer Date must be at least 30 days subsequent to the date of receipt by the Company of the written notice for any transfer to be made from a Separate Fund comprised predominantly of common stock investments, and at least 90 days subsequent to receipt by the Company of the written notice for transfers from any other Separate Funds.
- 2. The maximum amount which may be transferred from the Separate Funds to the Pension Administration Fund in any Contract Year shall be an amount then to be paid to the Pension Administration Fund in accordance with Section 1 of this Article. Transfers of amounts in excess of this limit shall

be subject to the consent of the Company and shall be subject to such Rate Tables as the Company shall determine.

- 3. Transfers shall normally be made as of the last business day of the month except that transfers may be deferred by the Company for a reasonable period of time in order for the Company to complete the necessary computations and arrangements for making the transfers, and may be deferred when banking activities have been suspended, when security exchanges are closed, when there is restricted trading on any stock exchange, or when an emergency or other circumstance beyond the control of the Company exists and as a result of which disposal of securities is impractical, or the Company cannot fairly determine the value of assets in the Separate Funds.

If the Company determines that the amount and character of any securities which are to be liquidated in order to make the transfers in cash cannot be liquidated without undue sacrifice, it may defer making the transfers for such period as it determines necessary, or upon request of the Sperry Rand Retirement Committee, the Company shall determine the securities which would be liquidated for any such transfer, and transfer such securities. No transfer of securities will be made, however, except as permitted by the applicable laws of the State of New York and the Commonwealth of Massachusetts.

- 4. A portion or all of the amount in the Separate Funds may be transferred from the Separate Funds to another insurance company or trustee which is funding benefits under the Plan or any successor or substitute plan which in the opinion of the

Sperry Rand Retirement Committee meets the applicable requirements of Section 401 of the Internal Revenue Code of 1954 or acts amending or replacing such Section."

In addition to any transfers in accordance with the foregoing provisions, if on any date the payment of a Contribution by the Employer is required in accordance with Section 1 of this Article, then, unless the Employer pays such Contribution, the Company shall have the right in its sole discretion to transfer an amount equal to such required Contribution from the Separate Funds to the Pension Administration Fund. Transfer of such amount shall be considered for the purposes of Section 1 of this Article as a payment by the Employer of the required Contribution. The Company shall, unless the Sperry Rand Retirement Committee has previously notified the Company in writing directing that transfers be made from designated Separate Funds, determine the Separate Fund or Funds from which such transfer is to be made.

SECTION 11. Maximum Considerations Applicable to Certain Employers: This Section is renumbered "SECTION 12."

4. ARTICLE V. GENERAL PROVISIONS: The following changes are made in this ARTICLE:

SECTION 7. Participation in Divisible Surplus: The last sentence of this Section is cancelled and annulled and the following is substituted therefor:

"In lieu of such credit to the Pension Administration Fund, the Sperry Rand Retirement Committee may direct, in a written notice filed with the Company, at its Home Office, that any such divisible surplus be placed in whole or in part in Separate Investment Account Number 18."

SECTION 8. Modification of This Contract: The second sentence of the fifth paragraph of this Section is cancelled and annulled.

SECTION 11. Funds under This Contract: The second sentence of the sole paragraph of this Section is cancelled and annulled and the following is substituted therefor:

"Separate Investment Account Number 18 and all monies therein shall be assigned to the Separate Investment Account of the Company."

SECTION 12. Management of Separate Investment Account: This Section is cancelled and annulled and the following is substituted therefor:

"SECTION 12. Management of Separate Investment Account Number 18.

The Company shall be the sole owner of the assets in and shall have the sole right to control, manage, and administer Separate Investment Account Number 18, and each investment class it establishes within such account and may take any action which, in its judgment, is necessary or desirable for carrying out its duties in connection therewith, including but not limited to the right:

- (a) to invest and reinvest all monies attributable to an investment class in such securities of any kind or character which the Company, in its sole discretion, may select consistent with the investment policy established by the Company for such investment class;
- (b) to sell, convey, transfer, exchange and otherwise dispose of property from time to time in such manner and upon such terms as the Company, in its sole discretion, may determine;

- (c) to retain in cash without liability for interest such funds as the Company shall deem reasonable; and
- (d) to establish and withdraw (with respect to future Contributions as stated in the first paragraph of Section 10 of Article III) any investment class or classes within Separate Investment Account Number 18.

The Employer or the Sperry Rand Retirement Committee, as applicable, shall have no individual ownership in or to any investments or assets in Separate Investment Account Number 18 and neither the allocation to this Contract of a pro rata share of monies in an investment class or classes nor the records and accounts kept in connection therewith shall be deemed to confer any ownership."

Boston, Massachusetts

JOHN HANCOCK MUTUAL LIFE
INSURANCE COMPANY

/s/ J.G. McElwee, Secretary

Date: June 29, 1976

Countersigned by

/s/ Michael B. O'Toole

New York, New York

SPERRY RAND CORPORATION

Date: June 1, 1976

By /s/ [name illegible]

Assistant Treasurer

Form 100-50 GAC-15 Amendment effective June 30, 1976

AMENDMENT to be attached to and made a part of
Group Annuity Contract No. 50 GAC issued by the
JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY
covering certain employees of

SPERRY RAND CORPORATION

It is understood and agreed that, effective January 1, 1976, the following modification and alteration is hereby made in the conditions and provisions of this Contract:

ARTICLE III-SECTION 7. Discontinuance of Payment of Contributions and Termination of the Pension Administration Fund: The following change is made in the first paragraph of this Section:

Item (v) is cancelled and annulled.

Boston, Massachusetts

JOHN HANCOCK MUTUAL LIFE
INSURANCE COMPANY

/s/ J.G. McElwee, Secretary

Date: September 22, 1976

Countersigned by:

/s/ Michael B. O'Toole

Registrar

New York, New York

SPERRY RAND CORPORATION

Date: July 30, 1976

By /s/ [name illegible]

Assistant Treasurer

Form 100-50 GAC-16 Amendment effective January 1, 1976

AMENDMENT to be attached to and made a part of
Group Annuity Contract No. 50 GAC issued by the
JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY
covering certain employees of
SPERRY RAND CORPORATION

It is understood and agreed that, effective August 1, 1977, the following modifications and alterations are hereby made in the conditions and provisions of this Contract:

1. Cover Page:

The words "Prospective Deferred Liability" are added to the lower right corner of the cover page immediately below the words "Pension Administration Fund with Supplemental Fund".

2. ARTICLE I. Definitions

The following changes are made in this Article:

Definition 3. Retirement Annuity

The words ", other than a Non-guaranteed Benefit," are added immediately following the words "means the Annuity" in the first sentence of this Definition.

Definition 20. Termination of Employment

The words ", or Benefit Commencement Date," are added immediately following the words "Annuity Accrual Date" in the sole sentence of this Definition.

APPROVED
STATE OF NEW YORK
[Date illegible]
[Signature illegible]
SUPERINTENDENT OF INSURANCE

Definition 21. Employee

The words ", or Non-guaranteed Benefit," are added immediately following the words "Retirement Annuity" in the sole sentence of this Definition.

The following Definitions are added to this Article:

"27. 'Guaranteed Benefit' means the benefit, other than a Non-guaranteed Benefit, to which an employee or his designated survivor is entitled in accordance with the Plan as determined by the Retirement Committee and for which an amount is included in the Liability of the Fund in accordance with (b) of (B) of Section 2 of Article III.

If on any date after August 1, 1977, the Retirement Committee requests the Company to establish any Guaranteed Benefits in excess of the annuities canceled on January 1, 1968, with respect to certain employees and their designated survivors, such date and the form and yearly amount of such Guaranteed Benefit must be established in a manner which precludes selection on the basis of expected longevity as determined by the Company or on a mutually agreed upon basis with the Contract Holder.

28. 'Non-guaranteed Benefit' means the benefit accrued on and after January 1, 1968, other than a Guaranteed Benefit, to which an employee or his designated survivor is entitled in accordance with the Plan as determined by the Retirement Committee, which will be provided hereunder commencing on the Benefit Commencement Date of the employee provided notice that such Non-guaranteed Benefit payments are to be paid is received by the Company as its Home Office prior to such Benefit Commencement Date.

29. 'Benefit Commencement Date' of an employee means the first day of the month on or after August 1, 1977, on which the first Non-guaranteed Benefit payment will be made with respect to the employee. Such date shall be the date

the Retirement Committee notifies the Company that Non-guaranteed Benefit payments are to commence with respect to the employee.

In the event that an employee also has an Annuity Commencement Date occur with respect to him, such date shall be the same as his Benefit Commencement Date."

2. ARTICLE II. Dates of Coverage and Plan of Benefits

The following changes are made in this Article:

Section 1. Dates of Coverage

The following paragraph is added to this Section immediately following paragraph two and becomes paragraph three of this Section:

"On and after August 1, 1977, an employee included under the Plan shall also become covered under this Contract when a Non-guaranteed Benefit is provided for him. A Non-guaranteed Benefit shall be paid to an employee on his Benefit Commencement Date if he is then included under the Plan and if termination of the Fund has not previously occurred in accordance with the provisions of Section 7 of Article III."

The following Section is added to the end of and made a part of Article II:

"Section 3. Non-Guaranteed Benefits

The Retirement Committee shall notify the Company in writing of the Benefit Commencement Date of an employee in advance of such date, and shall furnish such other information with respect to the employee or his designated survivor as is necessary to provide the Non-guaranteed Benefit.

The monthly amount of Non-guaranteed Benefit to be provided hereunder for an employee shall be the amount to

which he is entitled on such date in accordance with the Plan as determined by the Retirement Committee. The determination of eligibility for and the amount of such Non-guaranteed Benefit shall be made solely by the Retirement Committee and the Company shall have no responsibility for such determination.

On and after the Benefit Commencement Date of an employee, the Non-guaranteed Benefit for such an employee or his designated survivor shall be payable hereunder in accordance with the Plan until the earliest of the date of his death, the date the Retirement Committee notifies the Company in accordance with Section 9 of Article IV that said Non-guaranteed Benefit payments are to be canceled, suspended or adjusted, or the date the Pension Administration Fund is not sufficient to provide the Non-guaranteed Benefits for the payee."

3. ARTICLE III. Contributions

The following changes are made in this Article:

Section 1. Contributions to the Group Annuity Contract

- a. The words "or Benefit Commencement Dates" are added immediately following the words "Annuity Commencement Dates" in the sentence following the heading *Maximum Limitation*.
- b. The words "and the amount of Non-guaranteed Benefits due" are added immediately following the words "Liabilities of the Fund" in item (i) of the first sentence following the heading *Minimum Limitation*.
- c. The words "or Benefit Commencement Dates" are added immediately following the words "Annuity Commencement Dates" in item (iv) of the second sentence following the heading *Minimum Limitation*.

Section 2. Pension Administration Fund

- a. The following heading is inserted immediately following the Section title:

"A. Applicable to Guaranteed Benefits"

- b. The following paragraph and succeeding heading are added immediately following the second paragraph of this Section:

"B. Applicable to Non-guaranteed Benefits"

On the Benefit Commencement Date of an employee and on each date thereafter on which a Non-guaranteed Benefit is due with respect to an employee on or before the date of termination of the Fund, a Non-guaranteed Benefit shall be provided hereunder with respect to each employee entitled thereto. The Company shall be liable for any amount of Non-guaranteed Benefit expressed to be payable only to the extent to which the Fund is sufficient to provide such amount.

C. Applicable to Guaranteed and Non-guaranteed Benefits"

- c. The following item (f) is added immediately following item (e) under sub-section C. of this Section:

"(f) On each first day of the month the Company shall deduct from the Fund and pay to each employee or designated survivor, if any, covered hereunder for whom a Non-guaranteed Benefit becomes payable, the amount of Non-guaranteed Benefit due the employee in accordance with Section 3 of Article II."

Section 9. Transfer of Pension Administration Fund

The words "for all Non-guaranteed Benefits, and" are added to the end of item (i) of the next to last paragraph of this Section.

4. ARTICLE IV. Retirement Annuity Provisions

The following changes are made in this Article:

The title of this Article is changed to "ARTICLE IV. Provisions Pertaining to the Payment of Benefits".

Section 5. Death Benefit

The words ", and any Non-guaranteed Benefit paid to such employee or his designated survivor under the Contract on and after August 1, 1977" are added to the end of the second paragraph of this Section.

Section 6. Employee's Options on Termination of Employment

The following changes are made in this Section:

The words "and prior to August 1, 1977" are added to the heading of sub-section II of this Section.

The following sub-section is added to the end of this Section:

"III. Provisions Applicable to an Employee with Respect to Non-guaranteed Benefits provided on and after August 1, 1977"

A. If the Benefit Commencement Date of an employee, with respect to whom a Termination of Employment Date has occurred, occurs on or after August 1, 1977, and prior to the date of discontinuance of the payment of Contributions hereunder in accordance with Section 7 of Article III and provided the employee meets the vesting requirements as determined by the Retirement Committee in accordance with the Plan, the employee may be entitled, commencing on his Benefit Commencement Date, to receive a Non-guaranteed Benefit as determined by the Retirement Committee in accordance with the Plan. The payment of any such Non-guaranteed Benefit payments shall also be made in accordance with the terms of the Contract subject to the sufficiency of the Fund.

B. If the Benefit Commencement Date of an employee, with respect to whom a Termination of Employment Date of the Employee has occurred, occurs on or after August 1, 1977, and on and after the date of discontinuance of the payment of Contributions hereunder in accordance with Section 7 of Article III, but prior to the termination of the Fund, and provided the employee meets the vesting requirements as determined by the Retirement Committee in accordance with the Plan, the employee may be entitled, commencing on his Benefit Commencement Date, to receive a Non-guaranteed Benefit as determined by the Retirement Committee in accordance with the Plan. The payment of any such Non-guaranteed Benefit payments shall also be

made in accordance with the terms of the Contract subject to the sufficiency of the Fund."

The following Section is added to the end of this Article:

"Section 9. Payment of Non-guaranteed Benefits

Non-guaranteed benefit payments shall be payable to a payee, provided the Pension Administration Fund is sufficient for the purpose, upon written notice from the Sperry Rand Retirement Committee to the Company. Such notice shall specify the payee's Benefit Commencement Date and the amount, form and manner of such Non-guaranteed Benefit payments. Non-guaranteed Benefit payments shall continue until

- (a) the date of death of the payee,
- (b) the date as of which the Retirement Committee notifies the Company, in accordance with the next paragraph, that such Non-guaranteed Benefit payments are to be canceled, suspended, or adjusted,
- (c) the date as of which the Company, by written notice filed with the Retirement Committee at least thirty-one days prior thereto, declares its intention to cease such payments,
- (d) the date the Pension Administration Fund ceases to exist.

The Retirement Committee shall have the right to notify the Company that Non-guaranteed Benefits provided under this Contract shall be canceled, suspended or adjusted on

and after the date specified by the Retirement Committee. Such notice must be in writing and be received by the Company at its Home Office prior to the date of cancellation, suspension or adjustment. On and after the date of cancellation or suspension specified in such notice, no further payments shall be made by the Company with respect to the Non-guaranteed Benefits provided for payees included in any cancellation notice or during the period of suspension for payees included in any suspension notice, and the Company shall have no responsibility with respect to any Non-guaranteed Benefits which may be canceled, or if Non-guaranteed Benefits are suspended, during the period of suspension. On and after the date of the adjustment specified in such notice, the liability of the Company with respect to the Non-guaranteed Benefits provided for payees included in such notice shall be equal only to the liability for the adjusted Non-guaranteed Benefits provided in such notice for such payees."

5. ARTICLE V. General Provisions

The following changes are made in this Article:

Section 5. Information to be Furnished - Misstatements

The following changes are made in this Section:

In the first sentence of the first paragraph of this Section, the words "or Non-guaranteed Benefit payments" are added immediately following the words "Retirement Annuity payments".

In the sole sentence of the third paragraph of this Section, the words "or the amount withdrawn from the Fund for the payment of any Non-guaranteed Benefits," are added immediately following the words "Liabilities of the Fund".

Section 6. Evidence of Survival

The words "or Non-guaranteed Benefit payment" are added to the first sentence of this Section immediately following the words "Retirement Annuity payment".

Boston, Massachusetts

JOHN HANCOCK MUTUAL LIFE
INSURANCE COMPANY

/s/ J.G. McElwee, Secretary

Date: Oct. 12, 1978

Countersigned by:

/s/ [name illegible]

Registrar

New York, New York

SPERRY RAND CORPORATION

Date: June 29, 1978

By /s/ [name illegible]

Assistant Treasurer

AMENDMENT to be attached to and made a part of
Group Annuity Contract No. 50 GAC issued by the
JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY
covering certain employees of

SPERRY RAND CORPORATION

It is understood and agreed that, effective May 1, 1978, the following modifications and alterations are hereby made in the conditions and provisions of this Contract:

1. Cover Page: The following changes are made on the Cover Page:

The words "THE SPERRY CORPORATION, and SPERRY GYROSCOPE COMPANY, INC., FORD INSTRUMENT COMPANY, INC., VICKERS, INCORPORATED, SPERRY SECURITIES CORPORATION and SPERRY INVESTMENT CORPORATION (HEREIN-AFTER CALLED THE EMPLOYER)"

are hereby deleted and the following substituted therefor:

"THE CHASE MANHATTAN BANK, N.A.
as TRUSTEE OF THE SPERRY RAND
MASTER RETIREMENT TRUST NO. 2
(hereinafter called the Contract Holder)"

In the first paragraph the word "Employer" is stricken out in the second instance it appears and the words "Contract Holder" are substituted therefor.

APPROVED
STATE OF NEW YORK
FEB 20 1979
[Signature illegible]
SUPERINTENDENT OF INSURANCE

2. ARTICLE I. DEFINITIONS: The following changes are made in this Article:

Definition 11. In the first sentence the word "Employer" is stricken out and the words "Contract Holder" are substituted therefor.

Definition 12. In the second sentence the word "Employer" is stricken out and the words "Contract Holder" are substituted therefor.

Definition 14. In the second sentence the word "Employer" is stricken out and the words "Contract Holder" are substituted therefor.

The following definitions are added to the end of this Article:

"Definition 30. 'Trust' means the Trust Agreement made and entered into on October 1, 1976 and in effect on May 1, 1978 by and between the Sperry Rand Corporation and The Chase Manhattan Bank, N.A. and as it may be further amended from time to time.

Definition 31. 'Trustee' means The Chase Manhattan Bank, N.A. and such successor trustee or trustees as may from time to time be designated by the Employer.

Definition 32. 'Contract Holder' means The Chase Manhattan Bank, N.A. as Trustee of the Sperry Rand Master Retirement Trust No. 2.

3. ARTICLE III. CONTRIBUTIONS: The following changes are made in this Article:

In Sections 1, 2, 4, 5, 6, 7 and 10 the word "Employer" is stricken out wherever it appears and the words "Contract Holder" are substituted therefor.

SECTION 8. Continuation of Plan with Another Carrier: The following changes are made in this Section:

In the first paragraph prior to item (a) the word "Employer" is stricken out and the words "Contract Holder" are substituted therefor.

In item (a) of the first paragraph the word "Employer" as it appears in the second instance is stricken out and the words "Contract Holder" are substituted therefor.

In item (c) of the first paragraph the word "Employer" is stricken out and the words "Contract Holder" are substituted therefor.

In item (d) of the second paragraph the word "Employer" in the first instance it appears is stricken out and the words "Contract Holder" are substituted therefor.

In item (e) of the second paragraph the word "Employer" is stricken out in both instances where it appears and the words "Contract Holder" are substituted therefor.

SECTION 9. Transfer of Pension Administration Fund: The following changes are made in this Section:

In the first paragraph prior to item (a) the word "Employer" is stricken out and the words "Contract Holder" are substituted therefor:

Item (a) is deleted and the following is substituted therefor:

"(a) that the Employer has in force a retirement plan with the Contract Holder, another insurance company or another trustee under which benefits are being, or will be provided for employees of the Employer included under the Plan,"

In item (c) of the first paragraph the word "Employer" is stricken out and the words "Contract Holder" are substituted therefor.

SECTION 11. Transfer of Separate Funds: The following changes are made in this Section:

In item (b) and item (4) of the first paragraph insert the words "the Contract Holder or" immediately after the words "Separate Funds to".

Wherever the word "Employer" appears in this Section it is stricken out and the words "Contract Holder" are substituted therefor.

SECTION 12. Maximum Considerations Applicable to Certain Employees: In the fourth paragraph the word "Employer" is stricken out and the words "Contract Holder or Sperry Rand Retirement Committee, as applicable" is substituted therefor.

4. ARTICLE V. GENERAL PROVISIONS: The following changes are made in this Article:

In Sections 5, 12 and 16 wherever the word "Employer" appears it is stricken out and the words "Contract Holder" are substituted therefor.

SECTION 8. Modification of This Contract: The following changes are made in this Section:

Wherever the word "Employer" appears in the first, fourth and fifth paragraphs it is stricken out and the words "Contract Holder" are substituted therefor.

The words "the President, a Vice President, the Secretary or the Treasurer of the Employer" appearing in the seventh paragraph are deleted and the words "a Vice President-Trust Officer of the Contract Holder" are substituted therefor.

SECTION 9. Employer or Retirement Committee Not Agents of Company: This Section, including the heading, is deleted in its entirety and the following Section is substituted therefor:

"SECTION 9. Contract Holder, Employer, and Administrator Not Agents of Company

Neither the Contract Holder, the Employer nor the Administrator shall be considered the agent of the Company for any purpose under this Contract."

SECTION 15. Entire Contract: the word "Employer" appearing in the second sentence is stricken out and the words "Contract Holder" are substituted therefor.

Boston, Massachusetts

JOHN HANCOCK MUTUAL LIFE
INSURANCE COMPANY

/s/ [name illegible]

Date: March 9, 1979

Countersigned by:

/s/ [name illegible]

Registrar

New York, New York

SPERRY RAND CORPORATION

Date: November 15, 1978

By: /s/ [name illegible]

Title: Assistant Treasurer

New York, New York

THE CHASE MANHATTAN BANK, N.A.
AS TRUSTEE OF THE SPERRY RAND
MASTER RETIREMENT TRUST NO. 2

Date: November 30, 1978

By: /s/ [name illegible]

Title: Vice President

Form 100-50 GAC-18 Amendment effective May 1, 1978

AMENDMENT to be attached to and made a part
of Group Annuity Contract No. 50 GAC issued by the
JOHN HANCOCK MUTUAL LIFE INSURANCE
COMPANY

to

THE CHASE MANHATTAN BANK, N.A. as
TRUSTEE OF THE SPERRY RAND MASTER
RETIREMENT TRUST NO. 2

It is understood and agreed that, effective August 1, 1979,
the following modifications and alterations are hereby made in
the conditions and provisions of this Contract:

1. COVER PAGE. The following changes are made on the
Cover Page:

The words:

"THE CHASE MANHATTAN BANK, N.A. as
TRUSTEE OF THE SPERRY RAND MASTER
RETIREMENT TRUST NO. 2
(hereinafter called the Contract Holder)"

are hereby deleted and the following words are substituted
therefor:

"THE CHASE MANHATTAN BANK, N.A. as
TRUSTEE OF THE SPERRY MASTER
RETIREMENT TRUST NO. 2
(hereinafter called the Contract Holder)"

The fourth paragraph is deleted in its entirety.

In the lower right hand corner the words:

Form 100-50 GAC-19 Amendment effective August 1, 1979

"Pension Administration Fund with Supplemental Fund"

are hereby deleted and the following words are substituted therefor:

"Immediate Participation Guarantee Non-Contributory"

2. ARTICLE I. DEFINITIONS. The following changes are made in this Article:

Wherever the words "Sperry Rand Retirement Committee" and "Sperry Rand Corporation" appear in this Article they are deleted and the words "Sperry Retirement Committee" and "Sperry Corporation", respectively, are substituted therefor.

Definition 11. This definition is deleted in its entirety and the following definition is substituted therefor:

"Definition 11. 'Contribution' means the amount of the payment due the Company from the Contract Holder on any date in accordance with Section 1 of Article III to maintain the Pension Administration Fund."

Definition 13. This definition is deleted in its entirety.

Definition 14. This definition is deleted in its entirety.

Definition 14A. This definition is deleted in its entirety.

Definition 23. This definition is deleted in its entirety and the following definition is substituted therefor:

"Definition 23. The term 'Employer' means the Sperry Corporation as defined in Section 1.3 of Article I of the Sperry Retirement Program."

Definition 24. This definition is deleted in its entirety and the following definition is substituted therefor:

"Definition 24. The term 'Plan' means Part A of the 'Sperry Retirement Program' as it applies to employees in groups #1, #2 and #6, as in effect January 1, 1968 and as it may be amended from time to time thereafter."

Definition 32. This definition is deleted in its entirety and the following definition is substituted therefor:

"Definition 32. 'Contract Holder' means The Chase Manhattan Bank, N.A. as Trustee of the Sperry Master Retirement Trust No. 2."

3. ARTICLE II. DATES OF COVERAGE AND PLAN OF BENEFITS. The following changes are made in this Article:

Wherever the words "Sperry Rand Retirement Committee" appear in this Article they are deleted and the words "Sperry Retirement Committee" are substituted therefor.

4. ARTICLE III. CONTRIBUTIONS. The following changes are made in this Article:

Wherever the words "Sperry Rand Retirement Committee" appear in this Article they are deleted and the words "Sperry Retirement Committee" are substituted therefor.

Section 1. Contributions to the Group Annuity Contract. The following changes are made in this Section:

In the second sentence of the third paragraph the words "or the Separate Investment Account Number 18" are deleted.

In the first sentence of the *Minimum Limitations* subparagraph of the third paragraph of this Section immediately before item (i), the words "and Separate Investment Account Number 18" are deleted.

In the first sentence of the *Minimum Limitation* subparagraph of the third paragraph of this Section under item (ii), the words "and in Separate Investment Account Number 18 together" are deleted.

Section 2. Pension Administration Fund. The following changes are made in this Section:

In the third sentence of the first paragraph the words "or transferred from the Separate Investment Account Number 18" are deleted.

In the third sentence of the second paragraph the words "plus the amount in the Separate Investment Account Number 18" are deleted.

In the third sentence of the second paragraph the words "plus Separate Investment Account Number 18" are deleted.

In the fourth sentence of the second paragraph the words "or transferred from the Separate Investment Account Number 18" are deleted.

Section 3. Adjustments of Pension Administration Fund. The following change is made in this Section:

In the fourth paragraph the words "exclusive of the expenses and taxes which are deductible from the Separate Investment Account Number 18." are deleted and a period is placed immediately after the word "thereof".

Section 6. Suspension of Payment of Contributions. The following changes are made in this Section:

In the second sentence of the first paragraph the words "and the Separate Investment Account Number 18" are deleted in both instances where they appear.

Section 7. Discontinuance of Payment of Contributions and Termination of the Pension Administration Fund. The following changes are made in this Section:

In the third paragraph the words "and the Separate Investment Account Number 18" are deleted in both instances where they appear.

In the sixth paragraph the words "and after recognizing any transfer from the Separate Investment Account Number 18" are deleted.

In the eighth paragraph the words "and the Separate Investment Account Number 18" are deleted.

Section 9. Transfer of Pension Administration Fund. The following change is made in this Section:

The tenth paragraph of this Section is deleted in its entirety.

Section 10. Separate Funds. This Section is deleted in its entirety.

Section 11. Transfer of Separate Funds. This Section is deleted in its entirety.

5. ARTICLE IV. PROVISIONS PERTAINING TO THE PAYMENT OF BENEFITS. The following changes are made in this Article:

Wherever the words "Sperry Rand Retirement Committee" appear in this Article they are deleted and the words "Sperry Retirement Committee" are substituted therefor.

6. ARTICLE V. GENERAL PROVISIONS. The following changes are made in this Article:

Wherever the words "Sperry Rand Retirement Committee" appear in this Article they are deleted and the words "Sperry Retirement Committee" are substituted therefor.

Section 7. Participation in Divisible Surplus. The following change is made in this Section:

The last sentence of this Section is deleted in its entirety.

Section 8. Modification of This Contract. The following change is made in this Section:

Under item (b) of the first paragraph of this Section the words "and the amount of deduction to be made from the share of net investment earnings which is added to the Supplemental Fund in accordance with the first paragraph of sub-section B of Section 10 of Article III" are deleted.

Section 11. Funds Under this Contract. The following change is made in this Section:

The second sentence of the sole paragraph of this Section is deleted in its entirety.

Section 12. Management of Separate Investment Account Number 18. This Section is deleted in its entirety.

Boston, Massachusetts JOHN HANCOCK MUTUAL
LIFE INSURANCE COMPANY

/s/ [name illegible], Secretary

Date: February 20, 1981

Countersigned by:

/s/ [name illegible]

Registrar

New York, New York THE CHASE MANHATTAN
BANK, N.A. as TRUSTEE OF
THE SPERRY RAND MASTER
RETIREMENT TRUST NO. 2

Form 100-50 GAC-19 Amendment effective August 1, 1979

Date: October 29, 1980 By: /s/ [name illegible]

/s/ _____ Title: Vice President
Witness

New York, New York THE CHASE MANHATTAN
BANK, N.A. as TRUSTEE OF
THE SPERRY MASTER
RETIREMENT TRUST NO. 2

Date: October 29, 1980 By: /s/ [name illegible]

/s/ _____ Title: Vice President
Witness

Form 100-50 GAC-19 Amendment effective August 1, 1979

AMENDMENT to be attached to and made a part of
Group Annuity Contract No. 50 GAC issued by the
JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY
to

THE CHASE MANHATTAN BANK, N.A. AS TRUSTEE
OF THE SPERRY MASTER RETIREMENT TRUST NO. 2

WHEREAS, certain employees in the active employ of Sperry
Vickers of Sperry Corporation, on March 31, 1982 are no longer
included under this Contract effective April 1, 1982 and

WHEREAS, such employees shall be included under Group An-
nuity Contract No. 3607 GAC issued by the Company to Vickers,
Incorporated, a wholly owned subsidiary of Sperry Corporation;

NOW THEREFORE, it is understood and agreed that, effec-
tive April 1, 1982, all Assets and Liabilities with respect to Retire-
ment Annuities in effect hereunder on account of such employees
who are in the active employ of Sperry Vickers of Sperry Cor-
poration, on March 31, 1982, are transferred to Group Annuity
Contract No. 3607 GAC. An amount attributable to such
employees, as determined by the Employer, shall be transferred
from the Fund to the Pension Administration Fund under Group
Annuity Contract No. 3607 GAC. The amount so transferred
may include a portion of the Restricted Portion of the Fund if
such is applicable. In no event, however, shall the amount so
transferred be less than 105 % of the Liabilities of the Fund, as
determined by the Company, attributable to Retirement An-
nuities in effect with respect to such Transferred employees on
March 31, 1982. In addition, a portion, as determined by the
Company, of the Contingency Account attributable to the Retire-
ment Annuities so transferred, shall be transferred to the Con-
tingency Account held within the Experience Fund maintained
under Group Annuity Contract No. 3607 GAC.

IT IS FURTHER understood and agreed that, if and when
Vickers, Incorporated is no longer a wholly-owned subsidiary
of Sperry Corporation, all Assets and Liabilities with respect
to Retirement Annuities in effect under Group Annuity Contract

Form 100-50 GAC-20 Amendment effective April 1, 1982

No. 3607 GAC on account of employees who retired or terminated
with a vested right on or after March 31, 1982 and prior to the
date Vickers, Incorporated is no longer a wholly-owned subsidiary
of Sperry Corporation, shall be transferred back to this Group
Annuity Contract No. 50 GAC. The amount so transferred shall
be equal to 105 % of the Liabilities of the Fund, as determined
by the Company, attributable to Retirement Annuities in effect
with respect to such Transferred employees on the date Vickers,
Incorporated is no longer a wholly-owned subsidiary of Sperry
Corporation. In addition, a portion, as determined by the Com-
pany, of the Contingency Account held within the Experience
Fund maintained under Group Annuity Contract No. 3607 GAC
attributable to the Retirement Annuities so transferred, shall be
transferred to the Contingency Account held within the Ex-
perience Fund maintained under Group Annuity No. 50 GAC.

Boston, Massachusetts

JOHN HANCOCK MUTUAL LIFE
INSURANCE COMPANY

Date:

Countersigned by:

New York, New York

THE CHASE MANHATTAN BANK, N.A.,
AS TRUSTEE OF THE SPERRY MASTER
RETIREMENT TRUST NO. 2

Date:

By: /s/ [name illegible]

Witness: /s/ [name illegible] Title: Vice President

APPROVED
STATE OF NEW YORK
[Date illegible]
[Signature illegible]
SUPERINTENDENT OF INSURANCE

Form 100-50 GAC-20 Amendment effective April 1, 1982

36. Denies each and every averment of paragraph 52 thereof, except states that Sperry Corporation has protested to Hancock the use of the 1968 rate basis and tables in determining the Liabilities of the Fund.

37. Denies each and every averment of paragraphs 53 and 54 thereof.

38. With respect to the averments of paragraph 55 thereof, repeats and reavers each and every averment of paragraphs 1 through 25, 27, 29, 31 through 34, 36 and 37 hereof as if fully set forth herein.

39. Denies each and every averment of paragraphs 56 through 59 thereof.

40. With respect to the averments of paragraph 60 thereof, repeats and reavers each and every averment of paragraphs 1 through 25, 27, 29, 31 through 34, 36, 37 and 39 hereof as if fully set forth herein.

41. Denies each and every averment of paragraphs 61 and 62 thereof.

42. With respect to the averments of paragraph 63 thereof, repeats and reavers each and every averment of paragraphs 1 through 25, 27, 29, 31 through 34, 36, 37, 39 and 41 hereof as if fully set forth herein.

43. Denies each and every averment of paragraphs 64 through 66 thereof.

44. With respect to the averments of paragraph 67 thereof, repeats and reavers each and every averment of paragraphs 1 through 25, 27, 29, 31 through 34, 36, 37, 39, 41 and 43 hereof as if fully set forth herein.

45. Denies each and every averment of paragraphs 68 and 69 thereof.

46. With respect to the averments of paragraph 70 thereof, repeats and reavers each and every averment of paragraphs 1 through 25, 27, 29, 31 through 34, 36, 37, 39, 41, 43 and 45 hereof as if fully set forth herein.

47. Denies each and every averment of paragraph 71 thereof.

48. With respect to the averments of paragraph 72 thereof, repeats and reavers each and every averment of paragraphs 1 through 25, 27, 29, 31 through 34, 36, 37, 39, 41, 43, 45 and 47 hereof as if fully set forth herein.

49. Denies each and every averment of paragraph 73 thereof.

50. With respect to the averments of paragraph 74 thereof, repeats and reavers each and every averment of paragraphs 1 through 25, 27, 29, 31 through 34, 36, 37, 39, 41, 43, 45, 47 and 49 hereof as if fully set forth herein.

51. Denies each and every averment of paragraphs 75 and 76 thereof.

52. With respect to the averments of paragraph 77 thereof, repeats and reavers each and every averment of paragraph 1 through 25, 27, 29, 31 through 34, 36, 37, 39, 41, 43, 45, 47, 49 and 51 hereof as if fully set forth herein.

53. Denies each and every averment of paragraphs 78 and 79 thereof.

54. With respect to the averments of paragraph 80 thereof, repeats and reavers each and every averment of paragraphs 1 through 25, 27, 29, 31 through 34, 36, 37, 39, 41, 43, 45, 47, 49, 51 and 53 hereof as if fully set forth herein.

55. Denies each and every averment of paragraph 81 thereof.

56. With respect to the averments of paragraph 82 thereof, repeats and reavers each and every averment of paragraph 1

through 25, 27, 29, 31 through 34, 36, 37, 39, 41, 43, 45, 47, 49, 51, 53 and 55 hereof as if fully set forth herein.

57. Denies each and every averment of paragraph 83 thereof, except respectfully refers the Court to GAC 50, including the 1968 Amendment and other amendments thereto, with regard to the obligations of Hancock thereunder.

58. Denies each and every averment of paragraphs 84 and 85 thereof.

FOR A FIRST DEFENSE, AVERS:

59. The amended complaint fails to state any claim against Hancock upon which relief can be granted.

FOR A SECOND DEFENSE, AVERS:

60. Plaintiff's claims are barred, in whole or in part, by applicable statutes of limitations.

FOR A THIRD DEFENSE, AVERS:

61. Plaintiff's claims are barred, in whole or in part, by laches.

FOR A FOURTH DEFENSE, AVERS:

62. Plaintiff has waived any right it might have had to obtain the relief demanded in the amended complaint.

FOR A FIFTH DEFENSE, AVERS:

63. Plaintiff is estopped by its conduct from obtaining the relief demanded in the amended complaint.

FOR A SIXTH DEFENSE, AVERS:

64. The amended complaint should be dismissed for failure to join Sperry Corporation and the Retirement Committee of Sperry Corporation as parties herein.

FOR A FIRST COUNTERCLAIM, AVERS:

65. Pursuant to the provisions of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 *et seq.* ("ERISA"), plaintiff is a fiduciary and a party in interest with respect to the Sperry Corporation retirement program to which reference is made in paragraph 7 of the amended complaint (the "Plan").

66. In performing such duties and obligations as it may have had under GAC 50, as amended, Hancock has at all relevant times acted at the direction of, or with the knowledge and consent of, plaintiff or its predecessor.

67. In the event that Hancock is adjudged (a) to have breached any duties or obligations which it may have had arising under ERISA and (b) to be liable to plaintiff in damages in any amount by reason of any such breach, then and in that event plaintiff should also be adjudged (i) to have breached its duties and obligations arising under ERISA and (ii) to be liable to Hancock in damages, in whole or in part, as the facts adduced at trial may warrant, pursuant to the provisions of 29 U.S.C. § 1105.

FOR A SECOND COUNTERCLAIM, AVERS:

68. Hancock repeats and reavers each and every averment of paragraphs 65 and 66 hereof as if fully set forth herein.

69. Plaintiff is a fiduciary at common law with respect to the Plan.

70. In the event that Hancock is adjudged (a) to have breached any fiduciary obligations which it may have had and (b) to be liable to plaintiff in damages in any amount by reason of any such breach, then and in that event plaintiff should also be adjudged (i) to have breached its fiduciary obligations with respect to the Plan and (ii) to be liable to Hancock in damages, in whole or in part, as the facts adduced at trial may warrant.

WHEREFORE, Hancock demands judgment in its favor and against plaintiff, as follows:

(a) dismissing the amended complaint and each and every claim asserted therein with prejudice;

(b) in the event that Hancock is found to be liable to plaintiff in any amount, awarding Hancock judgment on its first counterclaim against plaintiff in such amount as the facts adduced at trial may warrant;

(c) in the event that Hancock is found to be liable to plaintiff in any amount, awarding Hancock judgment on its second counterclaim against plaintiff in such amount as the facts adduced at trial may warrant;

(d) awarding Hancock its costs and disbursements of this action, including reasonable attorneys' fees; and

(e) awarding Hancock such other and further relief as to the Court may seem just and proper.

Dated: New York, New York
May 30, 1984

REBOUL, MacMURRAY, HEWITT,
MAYNARD & KRISTOL

By /s/Howard G. Kristol
A Member of the Firm
Attorneys for Defendant
John Hancock Mutual
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Agreed Statement of Facts

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHASE MANHATTAN BANK, N.A., as :
Trustee of the Sperry Master :
Retirement Trust No. 2, :

Plaintiff, :

— against — :

83 Civ. 5401 (MGC)

JOHN HANCOCK MUTUAL LIFE :
INSURANCE COMPANY, :

Defendant. :

JOHN HANCOCK MUTUAL LIFE :
INSURANCE COMPANY, :

Third-Party Plaintiff, :

— against — :

SPERRY CORPORATION and THE :
RETIREMENT COMMITTEE OF :
SPERRY CORPORATION, :

Third-Party Defendants. :

AGREED STATEMENT OF FACTS

This Agreed Statement of Facts contains four sections: (A) Stipulated Facts; (B) Admissions by Defendant; (C) Admissions by Plaintiff; and (D) Exhibit

Authenticity Stipulation. The Stipulated Facts are accepted as true by both parties for purposes of their respective substantive motions. The Admissions by Defendant contain assertions by defendant which are not accepted by plaintiff but which may be relied upon by plaintiff, although not by defendant, for purposes of the parties' substantive motions. The Admissions by Plaintiff contain assertions by plaintiff which are not accepted by defendant but which may be relied upon by defendant, although not by plaintiff, for purposes of the parties' substantive motions. With respect to the Exhibit Authenticity Stipulation, the parties agree not to assert authenticity objections in connection with their substantive motions with respect to the following exhibits. The parties reserve all objections other than those on authenticity grounds.

A. STIPULATED FACTS

1. Plaintiff Chase Manhattan Bank, N.A. ("Chase") is a National Association organized and existing under the laws of the United States and has its principal office in New York, New York. Pursuant to an agreement dated October 1, 1976, and effective May 1, 1978, Chase became the trustee for the Sperry Rand Master Retirement Trust No. 2, which was established for the benefit of employees of Sperry Corporation and its participating subsidiary companies. As of October 1, 1987, Harris Trust and Savings Bank ("Harris") became the successor to Chase as Trustee. (Plaintiff herein is sometimes referred to as "Sperry Trust." "Sperry Trust" hereafter shall mean Chase or Harris as Trustee of the Sperry Rand Master Retirement Trust No. 2.). Undisputed Facts, ¶1.

2. Defendant John Hancock Mutual Life Insurance Company ("Hancock") is a Massachusetts corporation having its principal place of business in Boston, Massachusetts. Hancock is licensed, is doing business and has offices within the State of New York. Undisputed Facts, ¶2.

3. Third party defendant Sperry Corporation was a corporation organized and existing under the laws of the State of Delaware, having its principal place of business in New York, New York. On or about November 12, 1986, Sperry Corporation merged with Burroughs Corporation to form Unisys Corporation, a corporation organized and existing under the laws of Delaware. Undisputed Facts, ¶3.

4. Third party defendant The Retirement Committee of Sperry Corporation (the "Sperry Retirement Committee" or "SRC") was later known as the Employee Benefits Executive Committee. The duties previously performed by the SRC are now carried out by the Pension Investment Review Committee of Unisys Corporation. Undisputed Facts, ¶4.

5. As of March 1, 1941, Sperry Corporation and Hancock entered into a Group Annuity Contract, No. 50 GAC ("GAC 50"). Undisputed Facts, ¶5.

6. Pursuant to its terms, GAC 50 provided, among other things, for the purchase from Hancock of deferred annuities, which were to be payable to eligible Sperry Corporation employees or their beneficiaries upon such employees' retirement. These annuities were to be purchased with considerations, sometimes referred to as "contributions," to be paid to Hancock by Sperry Corporation and eligible Sperry Corporation employees, in accordance with purchase rate tables contained in the contract. Undisputed Facts, ¶6.

7. From its inception in 1941 until December 31, 1967, GAC 50 was a Deferred Annuity contract. Under GAC 50, Sperry Corporation purchased deferred annuities from Hancock on an annual basis for each eligible employee. Undisputed Facts, ¶7.

8. In general, the purchase price for a deferred annuity incorporates three factors: (a) a mortality table which estimates actuarially (i) the probability that an annuity benefit will be payable at each month following an annuitant's retirement at the assumed retirement age under the contract and (ii) if and

when a death benefit will be paid; (b) an interest rate for determining the "present value" of the stream of future benefits; and (c) a provision for future expenses, called "loading." Undisputed Facts, ¶8.

9. From GAC 50's inception in 1941 until as of December 31, 1967, the interest rate and mortality assumptions incorporated in GAC 50's purchase rates were changed from time to time. During that period, the interest rate assumptions incorporated in the purchase rates ranged from 2% to 3%. Undisputed Facts, ¶9.

10. Upon the purchase of any deferred annuity pursuant to GAC 50 during the time GAC 50 existed as a deferred annuity type of contract, Hancock guaranteed the payment of such annuity to the covered employee for life to the extent the employee would be entitled to such payment in accordance with the Retirement Program. Undisputed Facts, ¶10.

11. From its inception, GAC 50 has been a "participating" contract. A participating contract is one that is entitled to participate in the aggregate of the contract's experience, including mortality, expense and investment experience, to the extent that such experience is more favorable than the experience assumed in the contract's purchase rates. Undisputed Facts, ¶11.

12. With respect to Hancock's General Account, Hancock has sole authority and discretion, in accordance with and as limited by applicable laws and regulations, to establish and execute investment policy and to allocate investment income, capital gains and losses and investment expenses to particular lines of business, classes of contracts and particular contracts. Undisputed Facts, ¶12.

13. Hancock also has issued "non-participating" Group Pension contracts, such as the Guaranteed Investment Contract ("GIC") and Single Premium Annuity Contract. Non-participating group pension contracts are not entitled to participate in their contract experience, including, among other

things, the investment experience of the General Account. Non-participating contracts commonly contain either a guaranteed rate of return or a guarantee that specified benefits will be paid to a specified population for a fixed (often single) premium payment, although such features are not unique to non-participating contracts. Undisputed Facts, ¶13.

14. A GIC generally includes a guaranteed rate of return on funds contributed by the contractholder. Defendant's Response to Plaintiff's Request for Admissions, ¶161.

15. The right of participating General Account contracts to participate in the aggregate of their contract experience, including the investment experience of the General Account, distinguishes them from non-participating General Account contracts. Participation can take one of two forms — "direct-rated" or "dividend-rated." "Dividend-rated" contracts are sometimes known as "non direct-rated" contracts. Undisputed Facts, ¶14.

16. Hancock's Board of Directors annually votes, in its "dividend vote," to apportion and pay or allow a distribution of surplus with respect to eligible group annuity contracts and votes therein to adopt formulas for determining the distribution of such surplus.

17. For dividend-rated participating contracts, the aggregate of their contract experience, including investment, mortality and expense experience, to the extent more favorable than the experience assumed in the contract's purchase rates, is ultimately distributed to the contractholder, in whole or in part, as dividends. Undisputed Facts, ¶15.

18. For direct-rated participating contracts, the aggregate of their contract experience, including investment, mortality and expense experience, is directly credited to the contract's direct-rated "Fund." Undisputed Facts, ¶16.

19. From its inception until December 31, 1967, GAC 50 was a dividend-rated participating contract. Since January 1, 1968,

GAC 50 has been partially direct-rated and partially dividend-rated. Undisputed Facts, ¶17.

20. In 1959, Hancock changed its method for allocating investment income by adopting the "investment generation" method. In general, the investment generation method tracks the net increase in the experience account of each contract for each year (the "cell"). It credits each cell with the rate of return for General Account assets acquired by Hancock in the original investment year, adjusted for "rollover," which includes the maturity, sale, call and elimination through default of assets. As original investments mature, or "roll over," rates of return on new investments made with the proceeds will affect credits to the cell for the original investment year. On July 27, 1962, the New York State Insurance Department approved the investment generation method. Since 1959, Hancock has used the investment generation method to allocate net investment income to the experience accounts and direct-rated funds of its Group Pension participating contracts. Undisputed Facts, ¶18.

21. Through its investment generation method, Hancock allocates income, capital gains or losses, expenses and taxes to lines of business participating in the experience of Hancock's General Account. The same method is used by Hancock for the purpose of allocations to IPG contracts.

22. For a given year, the average of the rates of return for each cell, weighted to reflect the size of each cell for a particular contract, is referred to as the contract's "case rate." Undisputed Facts, ¶19.

23. By an amendment signed by the parties and effective as of January 1, 1968 (the "1968 Amendment"), GAC 50 was converted to a direct-rated Retrospective Immediate Participation Guarantee ("Retro-IPG") form of contract. Undisputed Facts, ¶20.

24. The 1968 Amendment was executed by Sperry Corporation on or about November 12, 1969 and by Hancock on or about January 28, 1970. Undisputed Facts, ¶21.

25. Hancock IPG contracts are "participating" contracts. Net investment income allocated to an IPG contract is directly credited on an annual basis to the "Fund," as defined in the contract, sometimes called the Pension Administration Fund ("PAF") and also known as the "IPG Fund." Under normal circumstances, a new-issue Hancock IPG contract, being solely a direct-rated contract, does not receive dividends. Undisputed Facts, ¶28.

26. The amount of the PAF depends, among other things, upon the investment performance of Hancock's General Account and upon the allocation of that performance to GAC 50. Defendant's Response to Plaintiff's Request for Admissions, ¶76.

27. Under the 1968 Amendment, Hancock guarantees that the PAF on any date will not be less than it otherwise would have been if the sum of the net interest earned and capital gains and losses apportioned to the PAF had always been zero from January 1, 1968.

28. As required by state law, Hancock annually establishes dividend formulae and determines the amount of any dividend to be paid under its participating contracts or policies, including GAC 50. Undisputed Facts, ¶29.

29. As of January 1, 1968 and upon the 1968 Amendment's becoming effective, GAC 50's Contingency Account represented the maximum amount potentially available under normal circumstances for dividend distribution to the contractholder. The Contingency Account as of January 1, 1968 consisted of the balance of GAC 50's pre-1968 "experience account" after deduction of GAC 50's Liabilities of the Fund ("LOF") and certain other amounts. Undisputed Facts, ¶30.

30. In the period January 1, 1971 through December 31, 1981, no dividends were paid under GAC 50. Undisputed Facts, ¶32.

31. Sperry Corporation and/or Sperry Trust was informed when Hancock paid a dividend or credited a dividend to GAC 50's PAF. Undisputed Facts, ¶49.

32. Pursuant to the 1968 Amendment, annuities purchased by Sperry Corporation from 1941 through December 31, 1967 for certain employees (the "pre-1968 Annuities") were "cancelled," as that term is used in the 1968 Amendment. The "cancellation" of the pre-1968 Annuities did not affect the guarantees of benefits by Hancock to participants and beneficiaries. Undisputed Facts, ¶33.

33. The 1968 Amendment provided that, if Sperry Corporation failed to maintain GAC 50's PAF and Supplemental Fund balances at or above a Minimum Operating Level ("MOL") equal to 105% of its LOF or to maintain the PAF balance at least equal to the LOF, the PAF could be "terminated," as that term is used in the contract. GAC 50's LOF as of January 1, 1968, was based upon rate tables, incorporated into and made a part of the contract, which contained 2-1/2% and 3% interest rate assumptions and employed the 1937 Standard Annuity and 1951 Group Annuity Mortality Tables, with specified adjustments to reflect mortality improvement. Undisputed Facts, ¶34.

34. Since as of 1968, Hancock used and continues to use the interest rate assumptions incorporated in the 1968 Amendment's rate tables in its annual computation of the portion of GAC 50's LOF pertaining to the pre-1968 Annuities. Undisputed Facts, ¶35.

35. Under the 1968 Amendment, provision was made for the "repurchase" of the pre-1968 Annuities on the same aggregate terms as were applicable to such annuities prior to January 1968 under specified conditions. Undisputed Facts, ¶36.

36. Pursuant to the 1968 Amendment, certain events could trigger the termination of the PAF. Termination of the PAF could be triggered, among other things, by the contractholder's failure to maintain GAC 50's PAF balance at or above LOF and the PAF and Supplemental Fund balances together at or above MOL. Upon termination of the PAF, the contract would cease to function in the manner of a Retro-IPG contract, the "cancelled" pre-1968 annuities would be "repurchased," and the

contract would thereafter function in the manner of a Deferred Annuity contract. Undisputed Facts, ¶37.

37. The consequences of "termination" of the PAF (as that term is defined in the contract) would include (a) the contract would cease to function in the manner of a Retrospective IPG contract and (b) the contract would thereafter function in the manner of a Deferred Annuity contract. Defendant's Response to Plaintiff's Request for Admissions, ¶58.

38. As of January 1, 1968, GAC 50's LOF was equal in amount to GAC 50's PAF balance. Since at least the early 1970's, GAC 50's PAF balance has exceeded the amount of its MOL (and thus its LOF). Undisputed Facts, ¶38.

39. The 1968 Amendment also established a method for the provision of additional benefits payable for the period after December 31, 1967. Under the 1968 Amendment, upon an eligible employee's retirement Hancock would determine, pursuant to rate tables contained in GAC 50, the amount by which LOF would increase if that portion of the employee's retirement benefit accruing in the period after January 1, 1968 were to be "guaranteed" by Hancock. If GAC 50's PAF balance exceeded the contractual MOL based upon this increased LOF, Hancock would guarantee the payment of the additional benefits. Under the 1968 Amendment, Hancock had the right after 1972 to change these rate tables. The new tables would apply only to benefits guaranteed after the effective date of the change of the tables. Undisputed Facts, ¶39.

40. Under the 1968 Amendment, if the amount of the PAF fell below the amount of the LOF or if the amount of the PAF and the Supplemental Fund balances together fell below the amount of MOL, Hancock could ask Sperry Corporation for a contribution. In either such event, Hancock was not obligated to guarantee any retirement benefits not previously guaranteed. Undisputed Facts, ¶40.

41. As of January 1, 1968, the rates for the calculation of the portion of the LOF for retirement benefits guaranteed after

December 31, 1967, incorporated a 5% interest factor and the 1951 Group Annuity Mortality Table, with specified adjustments to reflect mortality improvement. Undisputed Facts, ¶41.

42. Any termination of the PAF would result in Hancock's "repurchase" of the pre-1968 Annuities and the purchase of annuities sufficient to provide the benefits guaranteed by Hancock in the period after January 1, 1968, at the rates set forth in the 1968 Amendment. Undisputed Facts, ¶42.

43. The 1968 Amendment provides, among other things, that Hancock shall credit the PAF annually with the PAF's share and the Contingency Account's share of the net interest earned and apportioned to Hancock's Group Pension line of business, less 1% of such share. Undisputed Facts, ¶43.

44. Hancock has maintained a record, known as "Account 9," which included the amount of the risk charges in excess of 1% of net interest that would have been allocable to GAC 50 under Hancock's annual risk charge votes but for the 1% provision. The Account 9 record also included, among other things, the amounts of net interest, realized capital gains and losses, and taxes that would have been allocated to Hancock's unallocated surplus had the risk charges in excess of 1% of net interest been charged to GAC 50. Undisputed Facts, ¶44.

45. The 1968 Amendment provides that Hancock determine as of December 31 of each calendar year commencing on and after January 1, 1968 (a) the LOF and (b) whether the amount of the PAF exceeds the amount of the LOF. Undisputed Facts, ¶45.

46. From 1968 to the present, Hancock has reported GAC 50's PAF balance to Sperry Corporation or Sperry Trust on an annual basis. Since 1968, Hancock has maintained a record of GAC 50's experience account, or "asset share," which consists of the contract's PAF and Contingency Account balances and also reflects the balance of Account 9. The experience account so recorded was never used for allocating experience to the contract's PAF and Contingency Account. Undisputed Facts, ¶46.

47. If the PAF had been terminated prior to January 1, 1988, the amount potentially available for dividend distribution to Sperry Corporation or Sperry Trust would have been reduced by that part of Account 9 attributable to the risk charges in excess of 1% of net interest that would have been allocable to GAC 50 under Hancock's annual risk charge votes but for the 1% provision. Undisputed Facts, ¶47.

48. Since January 1, 1988, Hancock has continued to maintain with respect to GAC 50 and other group annuity contracts a record known as Account 9. Defendant's Response to Plaintiff's Request for Admissions, ¶69.

49. The 1968 Amendment provides that Hancock's annual determination of the amount of net interest allocated to GAC 50 in accordance with Hancock's regular procedures in effect for contracts of the same class as GAC 50 at the time of such determination shall be conclusive for purposes of the contract. Undisputed Facts, ¶50.

50. The 1968 Amendment provides that Hancock's determination of the amount of capital gains or losses allocable to GAC 50, in accordance with Hancock's regular procedures in effect for contracts of the same class as GAC 50 at the time of each such determination, shall be conclusive for purposes of the contract. Undisputed Facts, ¶52.

51. The 1968 Amendment provides that Hancock's determination of the amount of expenses incurred by and/or to be allocated and apportioned to GAC 50 each year in accordance with Hancock's regular procedures in effect for contracts of the same class as GAC 50 at the time of each such determination shall be conclusive for purposes of the contract. Undisputed Facts, ¶53.

52. The 1968 Amendment provides that Hancock's annual determination of the amount of taxes allocated and apportioned to GAC 50 in accordance with Hancock's regular procedures in effect for contracts of the same class as GAC 50 at the time of each such determination shall be conclusive for purposes of the contract. Undisputed Facts, ¶54.

53. GAC 50 provides that, if there is a balance in the PAF upon GAC 50's termination, Hancock shall pay or apply such balance in a manner to be determined by mutual agreement between Hancock and Sperry Trust. Defendant's Response to Plaintiff's Request for Admissions, ¶107.

54. Hancock is required under GAC 50 to determine LOF annually. The method employed by Hancock each year to determine the LOF for GAC 50 has been to utilize the LOF rates incorporated into and made a part of the contract by the 1968 Amendment. Undisputed Facts, ¶55.

55. Immediately prior to the commencement of this action, GAC 50's case rate exceeded the interest rate assumptions used to compute the LOF, and GAC 50's PAF was greater than its LOF. Undisputed Facts, ¶56.

56. General Account funds are utilized by Hancock for, among other things, investment in subsidiaries and the acquisition and maintenance of "Home Office" properties, i.e. the buildings, land and physical plant maintained by Hancock for the operation of its business. Undisputed Facts, ¶57.

57. Hancock annually determines the rate of return on its Home Office properties. Hancock annually allocates income and losses from its Home Office properties to its participating General Account contracts, including GAC 50, as part of its process of allocating and apportioning investment income to its various lines of business. Undisputed Facts, ¶58.

58. In 1969, Hancock changed its procedure for allocating Federal Income Taxes to contingency accounts, PAF's and experience accounts so that any tax credits arising under participating group annuity contracts would be credited to unallocated surplus. That procedure was made effective with respect to 1968 and subsequent years and remained in effect through 1978. In years prior to 1968, Federal Income Taxes allocated in connection with participating group annuity contracts were limited to positive amounts. In years prior to 1968,

any "negative" taxes, i.e., tax credits, attributable to a participating group annuity contract could serve to reduce the Federal Income Taxes otherwise chargeable with respect to other participating group annuity contracts. Undisputed Facts, ¶59.

59. From 1968 through 1978, Federal Income tax credits available to Hancock with respect to participating contracts were credited to Hancock's unallocated surplus. Undisputed Facts, ¶60.

60. In 1971, Hancock adopted a policy of imputing to common stock investments made in a particular year the yields on Hancock's bond and mortgage investments made for that year in the first two years of the life of those common stock investments. Undisputed Facts, ¶61.

61. For the 1970 investment generation year, this policy raised the "new money" rate for the General Account, i.e., the rate of return on funds invested in the current year, from 7.31% to 7.94%. Undisputed Facts, ¶62.

62. The effect of this policy on participating contract interest allocation was to reduce the rate of income allocated on account of pre-1970 experience account increases. Undisputed Facts, ¶63.

63. This new policy applied to common stock investments made prior to 1977. Undisputed Facts, ¶64.

64. In 1979, Hancock adopted a policy under which, for the purposes of allocating investment results, the Group Pension line of business would not participate in future purchases of common stocks. Undisputed Facts, ¶65.

65. Following the conversion of GAC 50 to the Retro-IPG form of contract and prior to 1976, Hancock acted as an actuary with respect to Part A of the Sperry Retirement Program (the "Plan") and submitted annual actuarial valuations of the portion of the Plan involving GAC 50 to Sperry Corporation. Undisputed Facts, ¶66.

66. In connection with these actuarial valuations, Hancock employed interest assumptions that were different from the interest assumptions contained in the LOF rates under the 1968 Amendment. Undisputed Facts, ¶67.

67. In or about March of 1975, Sperry Corporation received from the Equitable Life Assurance Society of the United States a Report to Equitable Contract Holders, dated March 14, 1975, and entitled Pensions and Profit Sharing, which addressed the subject of compliance with ERISA. By letter dated March 25, 1975, Thomas V. Hirschberg wrote to Philip W. Jefferson at Hancock regarding ERISA and enclosed a copy of the Report to Equitable Contract Holders, dated March 14, 1975. Undisputed Facts, ¶70.

68. Thomas V. Hirschberg and Kenneth Crafts participated on behalf of Sperry in the activities of a committee known as "ERIC". ERIC was formed in 1975 after the enactment of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1974) ("ERISA"). From the time of its formation through at least the end of 1978, the membership of the committee known as ERIC consisted principally of large companies and other entities sponsoring pension plans or the representative of such companies or entities. Undisputed Facts, ¶71.

69. Certain Hancock employees participated on behalf of Hancock in the activities of an entity known as "ERIC." Defendant's Response to Plaintiff's Request for Admissions, ¶171.

70. ERIC was formed to, among other things, engage in review, lobbying and study of ERISA. Undisputed Facts, ¶72.

71. ERIC was formed to, among other things, disseminate information to its members relating to ERISA and to changes that ERISA did or might require in its members' conduct relating to their pension plans in order to comply with ERISA. Undisputed Facts, ¶74.

72. ERIC's activities through July 19, 1977, included, among other things, lobbying and disseminating information to its members relating to ERISA. Undisputed Facts, ¶73.

73. ERIC's activities through July 19, 1977, included, among other things, disseminating information to its members relating to changes that ERISA did or might require in its members' conduct relating to their pension plans in order to comply with ERISA. Undisputed Facts, ¶75.

74. It is Hancock's understanding that ERIC engaged in lobbying with Congress and/or administrative agencies relating to ERISA. Defendant's Response to Plaintiff's Request for Admissions, ¶174.

75. The 1968 Amendment provides that the Asset Liquidation Adjustment ("ALA") shall be determined by Hancock using such approximations as it deems equitable and appropriate on the basis of the information most recently available for making such determination. Undisputed Facts, ¶68.

76. The 1968 Amendment provides that Hancock would determine the ALA in accordance with uniform procedures applicable to all contracts of the same class as GAC 50. Plaintiff's Response to Defendant's Request for Admissions, ¶108.

77. Hancock from time to time had procedures in effect, sometimes known as the "rollover facility," pursuant to which a contractholder could obtain upon request a transfer of a portion of the funds held under the contract at book value. Hancock from time to time, at the request of Sperry Corporation or Sperry Trust, transferred funds held under GAC 50 at book value using these procedures. Undisputed Facts, ¶69.

78. Transfers were made at Sperry Trust's request pursuant to "rollover" procedures in 1979 and 1981. Defendant's Response to Plaintiff's Request for Admissions, ¶88.

79. Hancock has not agreed to a transfer request by Sperry Trust utilizing "rollover" procedures since 1981. Defendant's Response to Plaintiff's Request for Admissions, ¶96.

80. By means of an amendment executed by Sperry Corporation on or about June 29, 1978 and by Hancock on or about

October 12, 1978 and effective as of August 1, 1977 (the "1977 Amendment"), GAC 50 was converted to a Retrospective-IPG/Prospective Deferred Liability form of contract. Under the 1977 Amendment, GAC 50's LOF would not automatically be increased upon the retirement of any employee and new retirement benefits would not automatically be guaranteed by Hancock. Under that amendment, on any date after August 1, 1977, the SRC could request that Hancock establish guaranteed benefits in addition to the benefits already guaranteed as of that date. Undisputed Facts, ¶76 and Plaintiff's Response to Defendant's Request for Admissions, ¶200.

81. Since the effective date of the 1977 Amendment, the SRC has not requested that Hancock establish any new "guaranteed benefits." Undisputed Facts, ¶77.

82. The 1977 Amendment provided for and permitted under certain circumstances the payment of "Non-Guaranteed Benefits." The 1977 Amendment further provided, among other things, that the monthly amount of Non-Guaranteed Benefits for eligible employees designated by the SRC, as well as any determination of eligibility for such benefits, would be determined solely by the SRC in accordance with the Plan. Undisputed Facts, ¶79.

83. Pursuant to the 1977 Amendment, Hancock paid Non-Guaranteed Benefits on a monthly basis through June 1982. Undisputed Facts, ¶80.

84. By letter dated May 24, 1982, Hancock was notified by the SRC that the Sperry Retirement Program had been amended to include retired employees of the Univac Division of Sperry Corporation within the category of eligible employees covered by GAC 50. Undisputed Facts, ¶81.

85. By letter dated May 24, 1982, the SRC requested payment by Hancock of Non-Guaranteed Benefits for the month of June 1982. Undisputed Facts, ¶82.

86. By letter dated May 27, 1982, Hancock gave notice of its intention to cease making payments of Non-Guaranteed Benefits, effective 31 days from the date of such notice. Undisputed Facts, ¶83.

87. Since June 1982, Hancock has not made any Non-Guaranteed Benefit payments. Undisputed Facts, ¶84.

88. In 1982, Hancock determined to "segment" its General Account into subaccounts, each with its own investment policy. Two of the "segments" have been designated as the Pension Participating Segment, which is applicable to GAC 50, and the Pension Non-Participating Segment. Undisputed Facts, ¶88.

89. "New money" rates for particular segments of Hancock's General Account reflect the allocation of investment income to the respective segments. Defendant's Response to Plaintiff's Request for Admissions, ¶142.

90. In the insurance industry, "reserve-straining business" refers to contracts under which the premiums payable are less than the minimum statutory reserve level that state insurance authorities require for such contracts. Undisputed Facts, ¶90.

91. Reserve-straining business generates "negative operating gain" and reduces statutory surplus. Undisputed Facts, ¶91.

92. Surplus augments Hancock's capacity to write reserve-straining business. Undisputed Facts, ¶92.

93. Hancock has never established a statutory reserve for the Contingency Account. Undisputed Facts, ¶31.

B. ADMISSIONS BY DEFENDANT

94. It is Hancock's position that the amounts represented by the Contingency Account are part of Hancock's surplus and are available to satisfy any and all of Hancock's General Account obligations. Defendant's Response to Plaintiff's Request for Admissions, ¶159.

95. It is Hancock's position that upon the termination of the PAF associated with GAC 50, the limitation on the deduction from the PAF's and the Contingency Account's allocable share of net interest to 1% would not apply. Defendant's Response to Plaintiff's Request for Admissions, ¶59.

96. It is Hancock's position that if prior to the final termination of the contract the PAF has terminated, any dividend and its amount would be determined in accordance with the dividend formulae then in effect, as required by applicable state law. Defendant's Response to Plaintiff's Request for Admissions, ¶108.

97. It is Hancock's position that the 1977 Amendment provides that "Non-Guaranteed Benefits" under GAC 50 could be paid to the extent the PAF exceeded the MOL, subject to certain conditions, including Hancock's right to cease making such payments in accordance with the provisions of the 1977 Amendment. Defendant's Response to Plaintiff's Request for Admissions, ¶113.

98. Hancock estimated at one time in 1982 that the ALA that would have been applicable to a transfer at that time of the Transferable Balance under GAC 50 was approximately 39%. That fact was communicated to Sperry Corporation and the SRC. Defendant's Response to Plaintiff's Request for Admissions, ¶78.

99. It is Hancock's position that in or about 1982, Hancock and the SRC and Sperry Corporation engaged in negotiations regarding possible amendments to GAC 50, including amendments that would have changed the rate bases and tables in GAC 50 and would have permitted a transfer of certain funds from GAC 50's PAF without application of an ALA. The parties were unable to reach agreement with respect to such amendments. Defendant's Response to Plaintiff's Request for Admissions, ¶97.

C. ADMISSIONS BY PLAINTIFF

100. While GAC 50 was a deferred annuity contract, Sperry Corporation's contributions were deposited by Hancock in its

General Investment Account. Plaintiff's Response to Defendant's Request for Admissions, ¶6.

101. Hancock offered to amend GAC 50 to convert it from a deferred annuity contract to a form of contract participating immediately in the experience of Hancock's general investment account. Plaintiff's Response to Defendant's Request for Admissions, ¶11.

102. Hancock offered to amend GAC 50 to convert it from a deferred annuity contract to, *inter alia*, a retrospective IPG ("Retro-IPG") contract. Plaintiff's Response to Defendant's Request for Admissions, ¶12.

103. Among the reasons Sperry Corporation accepted the 1968 Amendment were that the requirement of annual contributions for each employee was eliminated and that the interest rate assumptions on future annuities provided under GAC 50 after its amendment would be 5 percent, resulting in a cost savings to the Plan and Plan sponsor without reducing the level of benefits available to eligible Sperry Corporation employees and beneficiaries of the Plan. Plaintiff's Response to Defendant's Request for Admissions, ¶16.

104. Sperry Corporation entered into the 1968 Amendment because, among other reasons, Hancock represented that it would result in Sperry Corporation's receiving the benefit of the investment experience of Hancock's general investment account more quickly than it had received the benefit of such investment experience when GAC 50 was a deferred annuity contract. Plaintiff's Response to Defendant's Request for Admissions, ¶20.

105. The 1968 Amendment contains purchase rates to be used by Hancock, until amended or changed, for the calculation of LOF. Plaintiff's Response to Defendant's Request for Admissions, ¶76.

106. Hancock has used the purchase rates set forth in Article VI of the 1968 Amendment to calculate LOF. Plaintiff's Response to Defendant's Request for Admissions, ¶79.

107. The 1968 Amendment provides that Sperry Trust may at any time direct Hancock to transfer funds to another insurance company or an appropriate trustee in the amount by which the PAF exceeds the LOF at the time of transfer (the "Transferable Balance"). Plaintiff's Response to Defendant's Request for Admissions, ¶91.

108. Article III, Section 9 of the 1968 Amendment contains provisions discussing when an ALA would be charged or credited in connection with a transfer of the Transferable Balance. Plaintiff's Response to Defendant's Request for Admissions, ¶92.

109. Article III, Section 9 of the 1968 Amendment sets forth the circumstances under which an asset liquidation charge or credit will be made in connection with a transfer of the Transferable Balance. Plaintiff's Response to Defendant's Request for Admissions, ¶95.

110. Pursuant to the 1968 Amendment, the amount of GAC 50's "experience account," which had been developed by Hancock in connection with the pre-1968 Annuities, less certain amounts, was credited to PAF and the Contingency Account. Plaintiff's Contentions of Fact, ¶4.

111. Since the 1968 Amendment became effective, Hancock has continued to use the original LOF rates with interest assumptions of either 2-1/2%, 3% or 5%, depending upon the year in which benefits were initially guaranteed by Hancock. Since the 1968 Amendment, those interest assumptions have not been changed, have been used by Hancock each year for the annual determination of GAC 50's LOF and would be used by Hancock in the event of a "repurchase" of the annuities. Plaintiff's Contentions of Fact, ¶5.

112. The portion of Hancock's General Account associated with its Group Pension line of business consists primarily of fixed income securities. Hancock has taken the position that any lump-sum transfer of funds out of the General Account must be subject to a book-to-market "Asset Liquidation Adjustment" ("ALA"), whether or not the transfer necessitates the

actual liquidation of any assets. Plaintiff's Contentions of Fact, ¶40.

113. Unlike a Retro-IPG contract, under a GIC there is no risk of loss to the contractholder. Therefore, GIC's are "guaranteed benefit polic[ies]" as that term is used in ERISA. Plaintiff's Contentions of Fact, ¶93.

114. The 1968 Amendment for the first time added a contractual "risk charge" to GAC 50. Prior to 1968, there had been no provision in the contract for such a charge. As a result of the 1968 Amendment, a risk charge of 1% of net interest income was added to GAC 50. Plaintiff's Contentions of Fact, ¶101.

D. EXHIBIT AUTHENTICITY STIPULATION

1. *Plaintiff's List*

Plaintiff's Trial Exhibit 12
 Plaintiff's Trial Exhibit 25
 Plaintiff's Trial Exhibit 36
 Plaintiff's Trial Exhibit 56
 Plaintiff's Trial Exhibit 82
 Plaintiff's Trial Exhibit 96
 Plaintiff's Trial Exhibit 110
 Plaintiff's Trial Exhibit 145
 Plaintiff's Trial Exhibit 156
 Plaintiff's Trial Exhibit 168 A
 Plaintiff's Trial Exhibit 168 B
 Plaintiff's Trial Exhibit 173
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 Plaintiff's Trial Exhibit 820
 Plaintiff's Trial Exhibit 853
 Plaintiff's Trial Exhibit 854

2. Defendant's List

Defendant's Trial Exhibit No. 1818 (Bates Nos. 563345-563390, 563283, 563233-563240, 563220, 563211-563215, 563131-563133, 563067-563070, 562974)
 Plaintiff's Trial Exhibit No. 25
 Defendant's Trial Exhibit No. 1818 (Bates No. 563330-563390)
 Defendant's Trial Exhibit No. 1818 (Bates No. 563329)
 Defendant's Trial Exhibit No. 1818 (Bates No. 563328)
 Defendant's Trial Exhibit No. 1818 (Bates Nos. 563280-563281, 563283)
 Defendant's Trial Exhibit No. 1818 (Bates No. 563279)
 Defendant's Trial Exhibit No. 1818 (Bates No. 563278)
 Defendant's Trial Exhibit No. 1818 (Bates Nos. 563230-563240)
 Defendant's Trial Exhibit No. 1818 (Bates No. 563229)
 Defendant's Trial Exhibit No. 1818 (Bates Nos. 563216-563218, 563220)
 Defendant's Trial Exhibit No. 1818 (Bates No. 563219)
 Defendant's Trial Exhibit No. 1818 (Bates Nos. 563202, 563211-563215)
 Defendant's Trial Exhibit No. 1818 (Bates No. 563203)
 Defendant's Trial Exhibit No. 1818 (Bates No. 563204)
 Defendant's Trial Exhibit No. 1818 (Bates Nos. 563126-563128, 563131-563133)
 Defendant's Trial Exhibit No. 1818 (Bates No. 563129)

Defendant's Trial Exhibit No. 1818 (Bates No. 563130)
 Defendant's Trial Exhibit No. 1818 (Bates Nos.
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 Defendant's Trial Exhibit No. 1818 (Bates No. 563065)
 Defendant's Trial Exhibit No. 1818 (Bates No. 563066)
 Defendant's Trial Exhibit No. 1818 (Bates No. 563056)
 Defendant's Trial Exhibit No. 1090 (Bates Nos.
 545684-545704)
 Defendant's Trial Exhibit No. 1108
 Defendant's Trial Exhibit No. 1285
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 Defendant's Trial Exhibit No. 1731
 Defendant's Trial Exhibit No. 1850
 Defendant's Trial Exhibit No. 1852
 Defendant's Trial Exhibit No. 1851
 Defendant's Trial Exhibit No. 528
 Defendant's Trial Exhibit No. 581
 Defendant's Trial Exhibit No. 628
 Defendant's Trial Exhibit No. 664
 Defendant's Trial Exhibit No. 709
 Defendant's Trial Exhibit No. 768
 Defendant's Trial Exhibit No. 900
 Defendant's Trial Exhibit No. 1007
 Defendant's Trial Exhibit No. 1112
 Defendant's Trial Exhibit No. 1220
 Defendant's Trial Exhibit No. 1453
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 Plaintiff's Trial Exhibit No. 45
 Plaintiff's Trial Exhibit No. 80
 Plaintiff's Trial Exhibit No. 114
 Plaintiff's Trial Exhibit No. 152
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 Plaintiff's Trial Exhibit No. 331

Plaintiff's Trial Exhibit No. 379
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 Plaintiff's Trial Exhibit No. 724
 Plaintiff's Trial Exhibit No. 735
 Plaintiff's Trial Exhibit No. 748
 Plaintiff's Trial Exhibit No. 765
 Plaintiff's Trial Exhibit No. 766
 Plaintiff's Trial Exhibit No. 707
 Defendant's Trial Exhibit No. 1367
 Defendant's Trial Exhibit No. 1488
 Defendant's Trial Exhibit No. 1531

Dated: New York, New York
 November 23, 1988

Jointly submitted by:

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By: /s/

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 Attorneys for John Hancock
 Mutual Life Insurance Company

GAC 50 (Amendments Nos. 10 to 20)

AMENDMENT to be attached to and made a part of
Group Annuity Contract No. 50 GAC issued by the
JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY
covering certain employees of

SPERRY RAND CORPORATION

It is understood and agreed that, effective January 1, 1968, the following modifications and alterations are hereby made in the conditions and provisions of this Contract:

1. Article I, II, III, IV, V and VI of Part A, Part B, Part C, Part D and Part E of this Contract are amended in their entirety as set forth hereinafter in this amendment, except to the extent that certain provisions of such Articles, as in effect on December 31, 1967 are specifically incorporated in this amendment by reference.
2. Cover Page: The following changes are made on this Page:

The following paragraph is added to the end of and made a part of the first page and becomes the fourth paragraph on this page:

"Payments made by the Employer to the Supplemental Fund shall participate on a pooled basis directly in the investment experience of the Company's Separate Investment Account."

The word "Contributory" appearing in the lower right corner is stricken out and the words "Pension Administration Fund with Supplemental Fund" are inserted therefor.

JA-110

Boston, Massachusetts

JOHN HANCOCK MUTUAL
LIFE INSURANCE COMPANY

/s/ Kenneth F. Mac Iver Secretary

Date: January 28, 1970

Countersigned by /s/ Thomas H. Hogan Jr.
Registrar

New York, New York

SPERRY RAND CORPORATION

Date: NOV 12 1969

By /s/ _____

APPROVED
STATE OF NEW YORK
[Date illegible]
[Signature illegible]
SUPERINTENDENT OF INSURANCE

JA-III

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ARTICLE I. DEFINITIONS

1. Unless otherwise specified, wherever the word "hereof" or "hereunder" or a similar word is used, it shall refer to the entire Group Annuity Contract and not to any particular Amendment, Article or Section of this Contract.

2. "Contract Anniversary" means a first day of May subsequent to May 1, 1941 except that subsequent to May 1, 1967 "Contract Anniversary" means January 1, 1968 or any first day of January thereafter; and "Contract Year" means the period commencing with May 1, 1941 and ending on April 30, 1942, the period of twelve months commencing with any Contract Anniversary prior to May 1, 1967, the eighth month period commencing May 1, 1967 and ending on December 31, 1967, or the period of twelve months commencing on each first day of January thereafter.

3. "Retirement Annuity" means the Annuity which may be purchased or provided hereunder for an employee, his Contingent Annuitant, or beneficiary. The term "provided" when used in connection with Retirement Annuity is applicable only prior to the date of termination of the Pension Administration Fund. The term "purchased" when used in connection with Retirement Annuity is applicable only on the date of termination of such Fund.

4. "Normal", when used in conjunction with any designated Retirement Annuity payable to an employee, means the designated Annuity which may commence on his Normal Retirement Date if he is then living and if at that time an Optional Form of Retirement Annuity is not in effect with respect to such employee.

5. "Normal Retirement Date" means the date on which the first Retirement Annuity payment with respect to any particular Retirement Annuity payable hereunder normally will be made to an employee if he is then living and if at that time the option for the commencement of Retirement Annuity payments at another date is not in effect with respect to him. The Normal Retirement Date with respect to

ARTICLE I

Form 100-50 GAC-10 Amendment effective January 1, 1968

- (i) a male employee shall be the first day of the month next following the month in which the sixty-fifth birthday of the employee occurs, unless his date of birth is the first day of a month, in which event his Normal Retirement Date shall be his sixty-fifth birthday,
- (ii) a female employee, with respect to the amount of Retirement Annuity, if any, cancelled on her account on January 1, 1968, shall be the first day of the month next following the month in which the sixtieth birthday of the employee occurs, unless her date of birth is the first day of a month, in which event her Normal Retirement Date shall be her sixtieth birthday, and
- (iii) with respect to that portion of her Retirement Annuity provided on and after January 1, 1968 in accordance with the Plan, shall be the first day of the month next following the month in which the sixty-fifth birthday of the employee occurs unless her date of birth is the first day of a month, in which event her Normal Retirement Date shall be her sixty-fifth birthday.

6. "Optional Retirement Date" means the date other than the Normal Retirement Date as of which the first Retirement Annuity payment with respect to any particular Retirement Annuity payable hereunder actually will be made to an employee if he is then living and if the appropriate option herein has been exercised.

7. "Annuity Accrual Date" means the Normal Retirement Date of an employee, with respect to any particular Retirement Annuity payable to him, unless an earlier Optional Retirement Date is in effect with respect to such particular Retirement Annuity, in which event 'Annuity Accrual Date' means such earlier date.

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8. The Annuity Commencement Date of an employee shall be the first day of the month on which the first Retirement Annuity payment will be made with respect to an employee.

9. "Employee's Contribution" means the amount contributed hereunder in each Contract Year or portion thereof prior to January 1, 1968 by an employee in accordance with Part A, Part B, Part C, Part D and Part E of this Contract as in effect on December 31, 1967.

10. "Employee's Accumulation" on any date means an amount equal to the sum of the aggregate of the Employee's Contributions of an employee which have been received by the Company hereunder prior to such date, and

- (a) interest thereon prior to January 1, 1968 computed in accordance with, Part A, Part B, Part C, Part D or Part E whichever is applicable, of this Contract as in effect on December 31, 1967, and
- (b) interest thereon on and after January 1, 1968 at the effective rate of three and one-half per cent per annum, compounded annually, computed separately, from such date; provided, however, on and after the date of termination of the Fund in accordance with Section 7 of Article III, interest from such date will be computed in accordance with (a) above, to the first day of the month in which the date specified in (a), (b) and (c) below occurs, whichever is applicable, but in no event later than the date specified in (c) below.
 - (a) The date of death of the Employee.
 - (b) The date of the employee's election of a cash surrender value.
 - (c) The Annuity Commencement Date of the employee.

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11. "Contribution" means the amount of the payment due the Company from the Employer on any date in accordance with Section 1 of Article III, to maintain either the Pension Administration Fund or the Supplemental Fund.

12. "Pension Administration Fund" hereinafter sometimes called the Fund, means the account, in the Company's General Investment Account, to which are credited the amounts described in the first and last paragraphs of Section 1 of Article III on account of Retirement Annuities cancelled on January 1, 1968, and in which Contributions, including Employee's Accumulations, are to be accumulated hereunder after December 31, 1967 and against which deductions, additions and adjustments are to be made hereunder in accordance with Sections 1, 2, 3 and 7 of Article III.

13. "Supplemental Fund" means the fund which participates on a pooled basis directly in the investment experience of the "Separate Investment Account", and in which Contributions, exclusive of Employees' Contributions, made thereto are to be accumulated and against which deductions, additions and adjustments are to be made in accordance with Section 10 of Article III.

14. "Separate Investment Account" means the separate investment account for pension contracts maintained by the Company on a pooled basis in accordance with applicable law.

15. "General Investment Account" means the general investment account maintained by the Company for all assets which are not assigned to and made part of the "Separate Investment Account".

16. "Consideration" means the amount to be deducted from the Fund on and after January 1, 1968 and applied to purchase a Retirement Annuity for an employee, a Contingent Annuitant or a beneficiary on the first day of the month on which termination of the Fund occurs.

ARTICLE I

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17. "Valuation Date" means December 31 of each calendar year commencing on or after January 1, 1968, and such other dates as of which the Company elects to determine whether the amount in the Pension Administration Fund exceeds the Liabilities of the Fund.

18. "Contingency Account" means the account to which an amount, determined by the Company in accordance with its regular procedures in effect at the time such determination is made for contracts in the same class as this Contract, is credited as of January 1, 1968 and from which an amount equal to any divisible surplus attributable to this Contract and apportioned in accordance with Section 7 of Article V will be deducted. All monies in such account shall be held as part of the general corporate funds of the Company.

19. Gender - Wherever a masculine pronoun is used herein, it shall be deemed, in all instances where appropriate, to mean the feminine pronoun as well.

20. "Termination of Employment Date" of an employee means a date occurring on or after January 1, 1968 and prior to the Annuity Accrual Date of the employee and specified by the Retirement Committee in a written notice filed with the Company at its Home Office as of which the employee ceases, otherwise than by death, to be in the employ of the Employer.

21. The word "employee" as used herein means any person in the employ of the Employer included under the Plan and classified by the Retirement Committee as eligible for coverage under this Contract or any other person who has ceased to be in the employ of the Employer for whom a Retirement Annuity is to be provided.

22. "Contingent Annuitant" means the person to whom Retirement Annuity payments are to be made for life after the death of the employee in accordance with the Option of Continuance of Retirement Annuity to Contingent Annuitant.

ARTICLE I

Form 100-50 GAC-10 Amendment effective January 1, 1968

23. The term "Employer" means the Sperry Rand Corporation as defined in Section 1.3 of Article I of the Sperry Rand Retirement Program.

24. The term "Plan" means Part A of the "Sperry Rand Retirement Program" as it applies to employees in groups #1, #2 and #6, as in effect January 1, 1968 and as it may be amended from time to time thereafter.

25. "Social Security Commencement Date" means the date on which it is expected that the employee will become entitled to old age insurance benefits under the Social Security Act, which date for the purposes hereof shall be limited to either the first day of the calendar month coincident with or next following the sixty-second birthday of the employee or the first day of the calendar month coincident with or next following the sixty-fifth birthday of the employee, and such date shall be determined by the Retirement Committee at the time when the Option of Increased Retirement Annuity Payments to Social Security Commencement Date is requested by the employee.

26. The term "Retirement Committee" means the committee appointed by the Board of Directors in accordance with the Plan. In those areas where the Retirement Committee has the authority under this Contract to act, the John Hancock shall be entitled to rely on notices, forms, or other correspondence supplied by the Retirement Committee. The John Hancock shall be liable only for the obligations contained in this Contract and shall have no responsibility whatsoever to ascertain the propriety of any action taken at any time by the Retirement Committee. The Employer shall notify the John Hancock of the names of the members of the Retirement Committee or its duly authorized representatives and the John Hancock shall be entitled to rely on signatures of those persons until such time as the Employer notifies the John Hancock of changes in membership of the Retirement Committee or its duly authorized representatives.

ARTICLE I

Form 100-50 GAC-10 Amendment effective January 1, 1968

ARTICLE II. DATES OF COVERAGE AND PLAN OF BENEFITS

SECTION 1. Dates of Coverage

Each employee, Contingent Annuitant or beneficiary covered under this Contract on January 1, 1968 shall continue to be covered under this Contract as amended effective January 1, 1968, if then living.

Each other employee included under the Plan shall become covered under this Contract only when a Retirement Annuity is provided or purchased for him. An annuity shall be provided or purchased for an employee on his Annuity Commencement Date, if he is then included under the Plan and if termination of the Fund has not previously occurred in accordance with the provisions of Section 7 of Article III.

On or before the date an employee is to become covered hereunder, the Retirement Committee shall furnish the Company with a written notice in the form to be agreed upon between the Retirement Committee and the Company, which shall specify

- (a) the name, date of birth and proof thereof, and sex of the employee and Contingent Annuitant, if any, and
- (b) such other information and data with respect to such employee and Contingent Annuitant or beneficiary as the Company deems necessary to provide for the coverage of the employee, the Contingent Annuitant or beneficiary.

SECTION 2. Retirement Annuity

A. The yearly amount of Retirement Annuity to be provided or purchased hereunder for each employee, Contingent Annuitant or beneficiary to whom the Company has commenced

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Retirement Annuity payments prior to January 1, 1968 shall be equal to the yearly amount of Retirement Annuity which was in effect on his account on December 31, 1967.

B. The yearly amount of Retirement Annuity to be provided or purchased hereunder for an employee included under the Plan whose Normal Retirement Date occurs on and after January 1, 1968 to whom Retirement Annuity payments are to commence on or after his Normal Retirement Date, shall be equal to the sum of (i) and (ii) below; provided, however, in the case of an employee who is covered hereunder on January 1, 1968 but is not included under the Plan such amount shall be equal to (i) below:

- (i) The yearly amount of Normal Retirement Annuity which was purchased and in effect on his account on December 31, 1967.
- (ii) The yearly amount of Normal Retirement Annuity, if any, to which he is entitled in accordance with the Plan, exclusive of the yearly amount of Normal Retirement Annuity, if any, applicable to him in accordance with (i) above, as determined by the Retirement Committee, in accordance with the Plan.

For purposes of the first sentence of this sub-section it shall be deemed in the case of a female employee with respect to whom more than one Normal Retirement Date is in effect, that the Normal Retirement Date referred to is the later of the two Normal Retirement Dates.

C. If Retirement Annuity payments to the employee are to commence on an earlier Optional Retirement Date in accordance with Section 3 of Article IV, then in lieu of the Normal Retirement Annuity described above, the employee shall be entitled to a reduced yearly amount of Retirement Annuity equal to the sum of (iii) and (iv) below:

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- (iii) A yearly amount of Retirement Annuity equal to the product of (i) above and the appropriate percentage determined from Table C of Article VI of Part A, Part B, Part C, Part D, or Part E of this Contract, as in effect as of December 31, 1967, whichever is applicable.
- (iv) The yearly amount of Retirement Annuity to which the employee is entitled on his earlier Optional Retirement Date in accordance with the Plan, as determined by the Retirement Committee exclusive of the yearly amount of Retirement Annuity, if any, applicable to him in accordance with (iii) above.

D. If Retirement Annuity payments are to commence on a later Optional Retirement Date in accordance with Section 3 of Article IV and such later Optional Retirement Date occurs on and after January 1, 1968 and prior to the date of termination of the Fund, the employee shall be entitled to have provided or purchased for him a yearly amount of Retirement Annuity equal to the yearly amount of Normal Retirement Annuity applicable to the employee on his Normal Retirement Date in accordance with sub-section B above.

E. In no event shall the yearly amount of Retirement Annuity provided or purchased hereunder for an employee on his Annuity Commencement Date be less than that which can be provided or purchased by his Employee's Accumulation on his Annuity Commencement Date by the application of the appropriate rate in Table 1 of Article VI, appropriately adjusted if an Optional Form of Retirement Annuity is in effect; and in the case of an employee who was covered hereunder on December 31, 1967, in no event shall the yearly amount of Retirement Annuity provided or purchased hereunder for the employee on his Annuity Commencement Date be less than that which was in effect hereunder on his account on December 31, 1967, appropriately adjusted if an earlier Optional Retirement Date or an Optional Form of Retirement Annuity is in effect.

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F. Wherever in this Section reference is made to an amount of Retirement Annuity being determined in accordance with the Plan, such determination for the purposes of this Contract shall be made solely by the Retirement Committee and shall be specified by the Retirement Committee in a written notice filed with the Company at its Home Office on or before the date such Retirement Annuity is to be provided or purchased. Such notice shall also include such other information concerning the employee as may be required by the Company for carrying out the provisions of this Contract.

G. Notwithstanding anything contained herein to the contrary,

- (a) if an Optional Form of Retirement Annuity is in effect with respect to an employee, the yearly amount of Retirement Annuity to be provided or purchased hereunder for such employee shall be appropriately adjusted in accordance with the provisions of such Optional Form of Retirement Annuity and the amount of Retirement Annuity if any, attributable to Retirement Annuities cancelled on January 1, 1968 shall be determined in accordance with Part A, Part B, Part C, Part D, or Part E, whichever is applicable, of this Contract as in effect on December 31, 1967, and based on factors furnished by the Company using the name mortality and interest assumptions as in effect on December 31, 1967, and
- (b) if the Termination of Employment Date of an employee has occurred, the yearly amount of Retirement Annuity to be provided or purchased hereunder for the employee shall be governed also by the applicable provisions of Section 6 of Article IV.

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ARTICLE III. CONSIDERATIONS

SECTION 1. Contributions to the Pension Administration Fund and the Supplemental Fund

The Employees' Accumulations with respect to Employees' Contributions received by the Company prior to January 1, 1968 which are being held by the Company on January 1, 1968 shall be credited to the Pension Administration Fund on January 1, 1968 as part of the amount credited to the Pension Administration Fund as of January 1, 1968 in accordance with the last paragraph of this Section.

The aggregate amount of Contributions to be paid to the Company by the Employer in each Contract Year or portion thereof on and after January 1, 1968 and placed in the Fund and in the Supplemental Fund may, within the limitations set forth herein, be paid at such times during the Contract Year as the Employer determines.

Except as may otherwise be agreed to in writing between the Employer and the Company, the aggregate amount of Contributions to be paid to the Company by the Employer in each Contract Year or portion thereof on and after January 1, 1968 and the portions of such Contributions to be placed in the Fund and in the Supplemental Fund in each such Contract Year or portion thereof shall be as determined by the Employer within the limitations and subject to the conditions set forth herein. The aggregate amount of such Contributions, including amounts added to the Fund or the Supplemental Fund during such Contract Year or portion thereof in accordance with Section 7 of Article V shall not exceed the amount specified below under the heading "Maximum Limitation" and shall not be less than the amount specified below under the heading "Minimum Limitation".

Maximum Limitation

The sum of (i) twice the amount which the Company estimates is necessary for normal costs for such

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Contract Year on account of employees included under the Plan who have not attained their Annuity Commencement Dates at the commencement of such Contract Year, and (ii) 20% of any past service costs attributable to any increases in benefits to employees provided by amendments to the Plan and determined on the effective dates of each such amendment.

Minimum Limitation

The amount which the Company determines is necessary to increase the Fund and the Supplemental Fund so that

- (i) the amount in the Fund will equal the Liabilities of the Fund at all times during such Contract Year, and
- (ii) the amounts in the Fund and in the Supplemental Fund together will equal 105% of the Liabilities of the Fund at all times during such Contract Year.

As used in this paragraph

- (iii) normal costs for any year are the current service costs applicable to such year of the Retirement benefits which the Company estimates may become payable under this Contract, and
- (iv) past service cost at any time with respect to employees who have not attained their Annuity Commencement Dates is the amount which would be required at such time to meet the cost of all the retirement benefits which the Company estimates may become payable under this Contract to such employees and which would not be met by future normal costs.

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The Company agrees to furnish estimates of normal and past service costs according to what it believes to be sound actuarial principles. However, on request of the Retirement Committee in lieu thereof, the Company will accept estimates of normal and past service costs furnished on a basis approved by the Company by any individual partnership, firm or corporation which is designated by the Employer and satisfactory to the Company. Such individual, partnership, firm or corporation may be changed from time to time by the Retirement Committee. However, the liability of the Company for the payment of Retirement Annuities is limited to the extent that Annuities have been provided in accordance with Section 2 of this Article for employees who have attained their Annuity Commencement Dates, for Contingent Annuitants or beneficiaries to whom Retirement Annuity payments are being made, or have been purchased on termination of the Fund for such employees, Contingent Annuitants or beneficiaries, and the Company assumes no responsibility of the sufficiency of the Fund to provide or purchase Annuities for employees as they attain their Annuity Commencement Dates, for Contingent Annuitants or for beneficiaries of such employees.

Notwithstanding anything contained herein to the contrary, on January 1, 1968 all Retirement Annuities then in effect hereunder are cancelled and an amount equal to the sum of (a), (b), (c) and (d) below will be credited to the Fund.

- (a) The actuarial reserves on account of such Retirement Annuities held by the Company with respect to this Contract on December 31, 1967, based on the following mortality and interest assumptions:

- (1) Retirement Annuities purchased on the July 1938 and on the March, 1941 rate basis:

The 1937 Standard Annuity Table (Males) unrated for males and rated at an age five years younger for females, with no loading, and interest at 2 1/2%.

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- (ii) Retirement Annuities purchased on the October 1959 rate basis:

The Group Annuity Table for 1951 (Males), projected to 1959 by Scale C and rated at an age one year younger for males and six years younger for females, with no loading, and interest at 3%.

- (b) The reserves held by the Company for any amounts payable by the Company on or before December 31, 1967 and which are unpaid on January 1, 1968.
- (c) The amount of any Employer's surrender values which have not been applied on or before December 31, 1967 in accordance with Section 7 of Article IV of this Contract as in effect on December 31, 1967.
- (d) The amount of any Retirement Annuity payments being held by the Company on December 31, 1967 on account of employees who have attained their Normal Retirement Dates but not their later Operational Retirement Dates in accordance with Section 9 of Article IV of this Contract as in effect on December 31, 1967.

SECTION 2. Pension Administration Fund

On the first day of each month after January 1, 1968 and on or before the date of termination of the Fund, an Annuity shall be provided hereunder (i) for each employee, including his Contingent Annuitant, if any, entitled thereto who then attains his Annuity Commencement Date, (ii) for each Contingent Annuitant entitled thereto to whom Retirement Annuity payments are then to commence in accordance with option (A) of Section 4 of Article IV and (iii) for each beneficiary entitled thereto to whom Retirement Annuity payments are then to commence in

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accordance with option (C) of Section 4 of Article IV. If on any first day of the month the amount in the Fund in excess of the Liabilities of the Fund is not sufficient to permit the increase in such Liabilities necessary to provide such Annuity, then unless the payment of Contributions has been discontinued in accordance with Section 7 of this Article, a Contribution sufficient to increase the Fund to such amount shall immediately be due and payable and the Company shall give the Employer written notice thereof. If such Contribution is not paid or transferred from the Supplemental Fund when due, subject to the provisions of Section 5 of this Article, only the pro rata portion of such Annuities to be provided on such date shall be provided as such excess is sufficient to provide, and the Company may cause the payment of Contributions to be discontinued and the Fund terminated in accordance with Section 7 of this Article.

The Company shall re-determine on each Valuation Date on or before the date of termination of the Fund the Liabilities of the Fund, using on account of an employee, Contingent Annuitant and beneficiary to whom Retirement Annuity payments are then being made, the same rate basis and Table in Article VI as was applicable on the date an Annuity first became payable to the employee, Contingent Annuitant or beneficiary, whichever is applicable; provided, however, that with respect to any amount of annuity which was cancelled on January 1, 1968, in accordance with Section 1 of this Article, the rate basis and Tables in Article VI which were applicable on January 1, 1968 shall be used unless otherwise agreed upon between the Employer and the Company. If on any Valuation Date prior to the discontinuance of the payment of Contributions in accordance with Section 7 of this Article, the Company determines that the amount in the Fund does not exceed the Liabilities of the Fund, then a Contribution sufficient to make the amount in the Fund exceed the Liabilities of the Fund shall immediately be due and payable and the Company shall give the Employer written notice thereof. If on any Valuation Date prior to the discontinuance of the payment of Contributions in accordance

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with Section 7 of this Article, the Company determines that the amount in the Fund and the amount in the Supplemental Fund together do not exceed 105% of the Liabilities of the Fund, then a Contribution sufficient to make the amounts in the Fund and in the Supplemental Fund exceed 105% of the Liabilities of the Fund shall immediately be due and payable and the Company shall give the Employer written notice thereof. If such Contributions are not paid or transferred from the Supplemental Fund when due, subject to the provisions of Section 5 of this Article, the Company may cause the payment of Contributions to be discontinued and the Fund terminated in accordance with Section 7 of this Article. The Company's determination of the amount in the Fund and the Liabilities of the Fund on any Valuation Date shall be conclusive for the purposes of this Contract.

Prior to the termination of the Fund, payments shall be made from the Fund as follows:

- (a) In the event of the death of an employee or the last survivor of the employee and the Contingent Annuitant if the Option of Continuance of Retirement Annuity to Contingent Annuitant is in effect, the Company shall deduct from the Fund and pay to the beneficiary of the employee in one sum the amount of death benefit payable in accordance with the first or the second paragraph of Section 5 of Article IV. The Company shall also deduct from the Fund and pay in one sum to the person entitled thereto any commuted value of payments which become payable under the provisions of option (C) of Article IV upon the death of an employee or beneficiary of the employee.
- (b) Upon receipt by the Company at its Home Office of notice of the employee's election of a cash surrender value in accordance with Section 6 of Article IV, the Company shall deduct from the Fund and pay to the employee the amount of cash surrender value payable in accordance with such Section.

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- (c) Upon receipt by the Company at its Home Office of the Retirement Committee's request for the payment of a death benefit in accordance with the third paragraph of Section 5 of Article IV, the Company shall deduct from the Fund and pay to the beneficiary of the employee the amount of death benefit payable in accordance with such paragraph.
- (d) On each first day of the month the Company shall deduct from the Fund and pay to each employee, Contingent Annuitant, or beneficiary covered hereunder for whom a Retirement Annuity has been provided on or before such first day of the month the amount of Retirement Annuity payment due the employee, Contingent Annuitant, or beneficiary on such date, or the amount of settlement due the employee in accordance with Section 1 of Article IV, whichever is applicable.

No payment shall be made from the Fund in accordance with this Section on or after the date of termination of the Fund. Upon such termination all amounts in the Fund shall be used in accordance with Section 7 of this Article.

As used in this Contract, the term "Liabilities of the Fund" on any specified date means the sum of (A), (B) and (C) below.

- (A) Any due and unpaid amounts chargeable to the Fund in accordance with this Contract.
- (B) The Considerations specified below which would have to be deducted from the Fund to purchase the benefits in (a) and (b) below.
 - (a) The sum of (i) and (ii) below
 - (i) The Considerations required to purchase the annuities cancelled on

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January 1, 1968, if any, on account of each employee who has not reached his Annuity Commencement Date, exclusive of the portion of such annuities to which the employee is no longer entitled as the result of the operation of Section 6 of Article IV.

- (ii) The Consideration required to purchase the portion of the Retirement Annuity arising from the annuities cancelled on January 1, 1968, if any, payable on account of each employee, Contingent Annuitant, and beneficiary to whom the Company is then making annuity payments and on account of the Contingent Annuitant of such employee.
- (b) The Considerations required to purchase the Retirement Annuity, exclusive of the portion, if any, of such Retirement Annuity described in (ii) of (a) above, payable on account of each employee, Contingent Annuitant or beneficiary to whom the Company is then making annuity payments, and on account of the Contingent Annuitant of such employee.

For this purpose the Considerations are calculated by the use of Tables 2a, 4a, 5a, 6a, and 7a of Article VI for the benefits described in (b) above, and are calculated by the use of Tables 2b, 3b, 4b, 5b, 6b and 7b of Article VI for the benefits described in (a) above. (Tables 2a and 2b relate to immediate life annuities; Table 3b relates to deferred life annuities; Tables 4a and 4b

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relate to reversionary life annuities, Tables 5a and 5b relate to immediate life annuities with a certain and continuous period, Tables 6a and 6b relate to immediate annuities for a certain period and Tables 7a and 7b relate to a temporary life annuity. The application of the Tables and the annuities to which they apply are described in Section 13 of Article V and in the headings of the Tables.)

(C) The excess, if any, of (c) over (d) below.

(c) The amount, if any, by which the Considerations in (B) above for the benefits described in (a) above if determined by the use of Tables 2c, 3c, 4c, 5c, 6c and 7c of Article VI exceed the corresponding Considerations if determined by the use of Tables 2b, 3b, 4b, 5b, 6b and 7b of Article VI, respectively.

(d) the amount in the Contingency Account on such specified date.

SECTION 3. Adjustments of Pension Administration Fund

The Company shall add to the Fund, as of each December 31st subsequent to January 1, 1968, the Fund's share and the Contingency Account's share of the net interest earned and apportioned to the Group Annuity Branch of the Company for the calendar year ending on such December 31st, less 1% of such share.

The Company shall add to or deduct from the Fund, whichever is applicable, as of each December 31st subsequent to January 1, 1968, the Fund's share and the Contingency Account's share of the capital gains and losses arising from the investment transactions of the Company during the calendar year

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ending on such December 31st which are apportioned to this call of contract for such year.

Notwithstanding anything contained herein to the contrary, the Company guarantees that the Fund on any date will not be less than it otherwise would have been if the sum of the net interest earned and capital gains and losses apportioned to the Fund had always been zero from January 1, 1968.

The Company shall deduct from the Fund during each calendar year the total expenses and taxes which are incurred or allocated under this Contract for such year or portion thereof, exclusive of the expenses and taxes which are deductible from the Supplemental Fund.

The interest, capital gains or losses, expenses and taxes to be allocated to this Contract and apportioned to the Fund in any year shall be determined by the Company in accordance with its regular procedures in effect at the time such determination is made for contracts in the same class as this Contract and such determination shall be conclusive for purposes of this Contract.

In lieu of the exact determination of the adjustments to be made in the Fund on December 31st in a calendar year, the Company may substitute an approximate method of determination, in which event an exact determination shall be made as soon as the Company has established the necessary facts, and adjustments made in the Fund on the preceding December 31st shall be appropriately modified. On the date of termination of the Fund, however, the Company may determine on an approximate basis adjustments to be made in the Fund in accordance with this Section for the portion of the calendar year completed on such date and such adjustments shall be conclusive for purposes of this Contract.

After the date of termination of the Fund, no further adjustments therein shall be made in accordance with this Section.

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SECTION 4. Payment of Contributions

All Contributions due the Company hereunder are payable by the Employer, on their respective due dates, at the Home Office of the Company or to a duly authorized representative presenting the official receipt signed by the President or Secretary and countersigned by the representative designated on such receipt.

Notwithstanding anything contained herein to the contrary, the Company shall be liable for any amount expressed to be payable only to the extent to which the appropriate Contributions therefor have been received by the Company.

SECTION 5. Grace Period

A grace period of thirty-one days without interest, during which time this Contract shall remain in effect, will be granted to the Employer for the payment of all Contributions provided the Employer has not, previous to the due date of the last such unpaid Contributions, given written notice to the Company that the payment of Contributions hereunder is to be suspended or discontinued as of such due date.

If any Contributions due hereunder are not paid by the Employer to the Company before the expiration of the grace period, the status of this Contract shall thereafter be the same as that set forth in Section 6 of this Article, unless and until action is taken by the Company in accordance with Section 7 of this Article.

SECTION 6. Suspension of Payment of Contributions.

The payment of Contributions hereunder may be suspended on and after the first day of any month specified by the Employer in a written notice filed with the Company at its Home Office not less than thirty-one days prior thereto; provided, however, such suspension shall not apply to any amounts due the Company in accordance with Section 2 of this Article. Any such

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suspension of the payment of Contributions shall be with respect to all employees, or all employees of any specified class or classes covered under the Plan, and shall be for a period of not more than one year, during which period the operation of the Fund and the Supplemental Fund, including payments from the Fund, the determination of the Liabilities of the Fund and adjustments to the Fund and the Supplemental Fund shall continue in the same manner as if there had been no suspension. The Company may agree in writing to extend any such suspension for such further period or periods, of not more than one year each, as it may wish to grant.

If, due to the operation of Section 1 of this Article, Contributions are not due on any date, this of itself shall not be a suspension of the payment of Contributions hereunder.

Any suspension granted by the Company in accordance with this Section shall be without prejudice to any rights of the Company to make modifications hereof in accordance with Section 8 of Article V, and to make such modification effective as of any Contract Anniversary occurring during such suspension.

SECTION 7. Discontinuance of Payment of Contributions and Termination of the Pension Administration Fund

The payment of Contributions hereunder shall be discontinued with respect to all employees covered under the Plan on and after the first day of the month specified in a written notice which may be given:

- (i) by the Employer to the Company that the payment of Contributions hereunder shall be discontinued with respect to such employees as of such date, notwithstanding any suspension of payment of Contributions that may then be in effect in accordance with Section 6 of this Article, provided such notice is received by the Company at its Home Office prior to such date, or

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- (ii) by the Company to the Employer, in event any Contribution then due is not paid on such date or within the grace period as set forth in Section 5 of this Article, or in event payment of Contributions hereunder is not then resumed subsequent to the expiration of any period or periods of suspension which may have become effective in accordance with Section 6 of this Article, or
- (iii) by the Company to the Employer in event the Company has previously declared its intention to exercise its right to modify the terms hereof in accordance with Section 8 of Article V and the Employer has failed to assent to such modification, or
- (iv) by the Company to the Employer, in the event the Plan shall be changed at any time and the Company in its sole discretion at that time determines that it is not sound business practice to continue to provide Retirement Annuities hereunder according to such changed Plan for employees who thereafter attain their Annuity Commencement Dates, or
- (v) by the Company to the Employer, in the event that in any period of three consecutive Contract Years, the aggregate Contributions paid to the Company are less than an amount equal to 25% of the total contributions which the Employer makes for such period with respect to employees included under the Plan for whom benefits are to be provided under the Contract.

Discontinuance of the payment of Contributions shall not affect the terms or conditions of any Retirement Annuity already provided hereunder on account of an employee except as specifically provided in this Contract.

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Notwithstanding the discontinuance of the payment of Contributions, the operation of the Fund and the Supplemental Fund, including payments from the Fund, the determination of the Liabilities of the Fund, and adjustments to the Fund and the Supplemental Fund, shall, unless otherwise agreed upon between the Employer and the Company, continue until the date of termination of the Fund, which date shall be the earliest of the following dates:

- (a) The first day of a month specified in a written notice which may be given by the Company to the Employer in the event that on any Valuation Date, on or after discontinuance of the payment of Contributions in accordance with the first paragraph of this Section, the total amount in the Fund does not exceed the Liabilities of the Fund.
- (b) The transfer Date as defined in Section 9 of this Article.
- (c) Such other first day of a month on or after the discontinuance of the payment of Contributions in accordance with the first paragraph of this Section as may be agreed upon in writing between the Employer and the Company

On the date of termination of the Pension Administration Fund the Company shall deduct from the Fund an amount equal to item (A) of the Liabilities of the Fund as described in the last paragraph of Section 2 of this Article and shall apply the amount in the Fund equal to item (B) of the Liabilities of the Fund described in the last paragraph of Section 2 of this Article as a Consideration to the purchase of the Retirement Annuity of each employee, Contingent Annuitant, and beneficiary with respect to whom an amount is included in the Liabilities of the Fund on such date. The amount of Retirement Annuity to be purchased by such Consideration shall be equal to the

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amount of Retirement Annuity used to establish the Liabilities of the Fund with respect to such employee, Contingent Annuitant, or beneficiary on the date of termination of the Fund. The amount in the Fund equal to item (C) of the Liabilities of the Fund shall be withdrawn and retained by the Company as a contingency reserve item.

The termination of the Fund shall not affect the amount or the terms of any Retirement Annuity being paid to the employee, Contingent Annuitant, or beneficiary on such date. The terms of any deferred Normal Retirement Annuity purchased in accordance with the immediately preceding paragraph of this Section on account of Annuities cancelled on January 1, 1968 shall be the same as were applicable to the comparable annuities so cancelled, as described in the provisions of this Group Annuity Contract as in effect on December 31, 1967. The terms of any other deferred Normal Retirement Annuity purchased in accordance with this Section shall be determined by the Company and upon request of the Employer shall be described in an amendment hereto.

If the termination of the Fund occurs in accordance with subparagraph (c) of the second paragraph of this Section, any balance then remaining in the Fund after making the applications described in the fourth paragraph of this Section and after recognizing any transfer from the Supplemental Fund and after deducting an amount equal to item (A) of the Liabilities of the Fund as described in the last paragraph of Section 2 of this Article, may be applied to purchase deferred Normal Retirement Annuities hereunder in a manner to be determined by mutual written agreement between the Employer and the Company.

The provisions of this Section may apply separately to any specified class or classes of employees included under the Plan but without effect upon the payment hereunder of Contributions with respect to any other employees.

If discontinuance of the payment of Contributions is not for all employees, the Employer shall notify the Company what portion of the Fund and the Supplemental Fund is attributable to

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employees with respect to whom such payment of Contributions is to be discontinued, and thereafter the payment of any Retirement Annuities for such employees shall be made only from the portion of the Fund which the Employer so notified the Company was attributable to such employees.

This Contract shall finally terminate when the Company shall have completed all payments due under this Contract. If at such time there is a balance in the Fund, the Company shall pay or apply such balance in a manner to be determined by mutual agreement between the Employer and the Company.

SECTION 8. Continuation of Plan with Another Carrier

If within ninety days following the discontinuance of the payment of Contributions in accordance with Section 7 of this Article the Company receives written notice at its Home Office from the Employer specifying

- (a) that the Employer has a retirement plan under another Group Annuity Contract issued by the Company to the Employer or with another insurance company or a trustee under which benefits are being provided for employees of the Employer included under the Plan,
- (b) the name and address of such other insurance company or trustee, and
- (c) that said retirement plan is one which in the opinion of the Employer meets the applicable requirements of Section 401 of the Internal Revenue Code or acts amending or replacing such Section,

then notwithstanding anything contained in Section 7 of Article III or sub-section II of Section 6 of Article IV, such Section will be operative as if the payment of Contributions had not been discontinued but were suspended, until the earlier of the

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dates specified in the next following paragraph; provided, however, that the provisions of this paragraph shall not apply to that portion, if any, of the Retirement Annuity provided for an employee which arises from Retirement Annuities purchased prior to January 1, 1968 under this Contract as in effect on December 31, 1967.

In the event the provisions of the first paragraph of this Section have become operative, they shall subsequently cease to apply and the discontinuance of the payment of Contributions shall be deemed to occur for the purposes of Section 7 of this Article and sub-section II of Section 6 of Article IV on whichever of the following dates first occurs:

- (d) The first day of the month following receipt by the Company at its Home Office of a written notice from the Employer that the Employer no longer has a retirement plan which meets the requirements of (a) and (c) of this Section.
- (e) The ninetieth day following the mailing by the Company to the Employer of a request for written notice from the Employer specifying the information shown in (a), (b) and (c) of this Section in the event that within such ninety-day period the Company does not receive such notice at its Home Office.
- (f) The transfer date as defined in Section 9 of this Article.

SECTION 9. Transfer of Pension Administration Fund

If the Employer files with the Company at its Home Office written notice specifying

- (a) that the Employer has in force a retirement plan with another insurance Company or trustee under which benefits are being, or will be, provided for employees of the Employer included under the Plan,

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- (b) the name and address of such insurance company or trustee, and
- (c) that said retirement plan is one which, in the opinion of the Employer, meets the applicable requirements of Section 401 of the Internal Revenue Code of 1954 or acts amending or replacing such Section,

the Company shall, provided the date of termination of the Fund has not previously occurred, deduct the Transferable Balance of Fund from the Fund on the Transfer Date. The Transferable Balance of Fund shall be an amount equal to the excess, if any, of the portion of the balance in the Fund over the Liabilities of the Fund on such date.

On the Transfer Date the Company shall transfer to the insurance company, or the trustee specified by the Employer in accordance with this Section, the Transferable Balance, increased or decreased, as the case may be, by the Asset Liquidation Adjustment described below.

The Asset Liquidation Adjustment on the Transfer Date shall be equal to (d) or (e) below, whichever is applicable.

- (d) The amount, if any, which the Company, in accordance with uniform procedures applicable to all contracts of this class, determines would be required to cover the investment losses to the Company resulting from making payment of the amount to be transferred on that date, assuming it was necessary to liquidate investments to provide such amount.
- (e) The amount, if any, which the Company, in accordance with uniform procedures applicable to all contracts of this class, determines would be the net capital gain to the Company resulting from making payment of the amount to be transferred

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on that date, assuming it was necessary to liquidate investments to provide such amount.

When (d) is applicable, the Transferable Balance shall be decreased by the Asset Liquidation Adjustment. When (e) is applicable, the Transferable Balance shall be increased by the Asset Liquidation Adjustment.

The Asset Liquidation Adjustment shall be determined by the Company using such approximations as it deems equitable and appropriate on the basis of information most recently available for making such determination.

The Transfer Date shall be the first day of the month specified by the Employer in such written notice, provided that the Transfer Date must be at least ninety days after such notice is filed.

The Company shall be allowed a reasonable period after the Transfer Date in order to make the necessary computations and arrange for payment, and shall have the right to defer making transfer during any period when regular banking activities have been suspended, securities exchanges are closed or there is restricted trading on any stock exchange, or for any period when an emergency or other circumstance beyond the control of the Company exists and as a result of which the disposal of securities, including the sale or delivery thereof or receipt of payment by the Company is not reasonably practicable.

If the Company determines that the amount and character of any securities which are to be disposed of in order to make a transfer are such that the disposal could not be accomplished in an orderly manner without undue sacrifice as to price, or without undue expense, it may defer the making of a transfer for such period as it deems necessary, with the amount to be transferred being determined on the date of transfer. However, in lieu of such deferment, upon written request of the Employer, the Company will determine the amount to be transferred by segregating as a class for investment purposes, and for the apportionment of investment earnings, capital gains, capital losses, expenses and taxes, the securities it determines would be disposed

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of in order to make the transfer. In the event of such segregation, the Company will also, if the Employer so requests, make the transfer wholly or partially in securities rather than in cash, transferring the securities which it determines would otherwise have been sold in order to make a cash payment. No such transfer of securities will be made, however, except as permitted by applicable laws.

If on the Transfer Date the Employer no longer has a retirement plan which meets the requirements of (a) and (c) above, or if on such date the insurance company or trustee specified in accordance with (b) above is not to receive payment under this Section and no other insurance company or trustee has been designated to receive such payment, the Company will hold the Transferable Balance until both requirements (a) and (c) are being met and an insurance company or trustee to receive such payment has been designated by written notice to the Company at its Home Office.

The provisions of this Section may apply separately to any specified class or classes of employees, in which event the Employer shall notify the Company what portions of the Fund are attributable to each specified class or classes of employees to which such provisions are to become applicable, and only such portions shall be used in determining the amounts to be deducted from the Fund with respect to each such specified class or classes of employees in accordance with the first paragraph of this Section.

Upon written request of the Employer filed with the Company at its Home Office, the Company shall, provided the payment of Contributions has not been discontinued in accordance with Section 7 of this Article, transfer a portion or all of the Transferable Balance from the Fund to the Supplemental Fund. Such transfer shall be made in the same manner and under the same conditions as would be applicable if such transfer were being made to a trustee or another insurance company; provided, however, the termination of the Fund shall not be deemed to occur on the Transfer Date.

In lieu of making payment in accordance with the provisions of this Section, payment may be made in such other manner and

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amount and at such other time as may be agreed to in writing between the Employer and the Company.

If,

- (i) on any date the Employer requests the Company to establish a Liability of the Fund for all Retirement Annuities accrued subsequent to January 1, 1968, as determined by the Employer in accordance with the Plan, for employees who have not attained their Annuity Commencement Dates, and
- (ii) the Company determines that the balance in the Fund exceeds the Liabilities of the Fund after the establishment of such Retirement Annuities, then

such excess shall be considered the result of an actuarial error and such excess may be transferred, at the request of the Employer, in accordance with the provisions of this Section as a Transferable Balance of Fund. The termination of the Fund shall be deemed to occur on the date such transfer is made and on such date the Company shall deduct the Liabilities of the Fund from the Fund and shall apply an amount equal to item (B) of the Liabilities of the Fund as a Consideration to the purchase of the Retirement Annuity for each employee, Contingent Annuitant and beneficiary, with respect to whom an amount is included in the Liabilities of the Fund.

Any payment made by the Company in accordance with this Section shall constitute a full discharge of the liability of the Company with regard to the amount so paid.

SECTION 10. Supplemental Fund

A. Investment of Contributions to Supplemental Fund

The Employer shall, by filing written notice with the Company at its Home Office, specify the portion of each payment of Contributions for the Supplemental Fund which is to be

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invested in whole or part in any one of the investment class or classes which is made available for such purpose from time to time by the Company in its Separate Investment Account. Any such direction shall remain in effect with respect to all Contributions to the Supplemental Fund until changed by the Employer with respect to future such Contributions in a prior written notice filed with the Company at its Home Office at least ninety days prior to the payment of Contributions to which such notice is to apply. Nothing contained in this Contract shall be construed to limit the right of the Company from time to time to establish a new investment class or classes or to withdraw, with respect to future contributions, any investment class or classes previously established in accordance with the investment policy established by the Company pursuant to a resolution of the Board of Directors. At the request of the Employer, the Company may establish at any time a non-pooled Separate Investment Account with respect to future contributions subject to the regular underwriting requirements of the Company then in effect at such time for such non-pooled Separate Investment Account.

B. Adjustments to Supplemental Fund

The Company shall add to the Supplemental Fund, as of the last day of each calendar month subsequent to December 31, 1967, the Supplemental Fund's share of the net investment income of each investment class of the Separate Investment Account in which the Supplemental Fund participates, without regard to the other investment income of the Company, less 1% of such share.

The Company shall add to or deduct from the Supplemental Fund, whichever is applicable, as of the last day of each calendar month subsequent to December 31, 1967, the Supplemental Fund's share of the capital gains and losses, realized and unrealized, of each investment class of the Separate Investment Account in which the Supplemental Fund participates, without regard to the other gains and losses of the Company.

The Company shall deduct from the Supplemental Fund as of the last day of each calendar month subsequent to December

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31, 1967, the total administrative expenses and taxes on account of the Supplemental Fund which are incurred or allocated under this Contract for such month.

In lieu of, or in addition to, making adjustments to the Supplemental Fund as of the last day of each calendar month, as indicated above, adjustments may be made on other dates as determined by the Company.

Investment income, investment expenses and taxes, and changes in appreciation and depreciation in the Separate Investment Account shall be allocated to contracts in proportion to the market value of the individual funds held in the Separate Investment Account. If there is no readily available market value, the Company will determine a fair value of the individual funds in accordance with accepted practices. All investment allocations to and within the Separate Investment Account shall be determined by the Company in accordance with its regular procedures in effect at the time such determination is made, and such determination shall be conclusive for purposes of this Contract. The Company agrees to furnish the Employer not less than once each calendar year a statement showing the amount of the assets of his Supplemental Fund which is held in each class of investments of the Separate Investment Account.

In lieu of the exact determination of the adjustments to be made in the Supplemental Fund as of the last day of each calendar month, the Company may substitute an approximate method of determination, in which event an exact determination will be made as soon as the Company has established the necessary facts, and the approximate adjustments made in the Supplemental Fund shall be appropriately modified.

After the date the Supplemental Fund has been terminated, no adjustments to the Supplemental Fund shall be made in accordance with this Section.

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C. Balance in Supplemental Fund

The balance in the Supplemental Fund at any time arising from Contributions to the Supplemental Fund, adjustments to the Supplemental Fund and transfers from the Supplemental Fund in accordance with sub-sections A, B and D, respectively, of this Section shall be determined by the Company in accordance with its regular procedures in effect at the time such determination is made for supplemental funds in its Separate Investment Account. Such determination shall be conclusive for purposes of this Contract.

D. Transfer of Supplemental Fund

Amounts may be transferred from the Supplemental Fund in the following manner and subject to the conditions in item (v).

(i) *Transfer to the Fund prior to Discontinuance of Payment of Contributions*

In the event, on any first day of the month, the balance in the Fund is such that a Contribution is required to maintain such balance above an amount equal to the Liabilities of the Fund, then, unless the Employer pays a Contribution sufficient therefor, or unless alternate instructions have been agreed to in writing between the Company and the Employer, the Company will transfer an amount sufficient therefor from the Supplemental Fund to the Fund.

The Employer shall notify the Company in writing of the class or classes of investments in its Separate Investment Account from which such transfer is to be made, but if no such notice has been received or if the class specified is inadequate to provide such Contribution, the Company shall have the right to select the class or classes from which such Contribution shall be withdrawn.

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In addition to any transfers described in the first paragraph of this item (i), a part or all of the balance in the Supplemental Fund may, if so agreed upon in writing between the Employer and the Company, be transferred to the Fund.

(ii) *Transfer to another Insurance Company or Trustee*

The Company will, upon notice from the Employer, withdraw the balance in the Supplemental Fund after making all adjustments thereto on or before the date of withdrawal in accordance with sub-section B of this Section, and pay such balance to an insurance company or trustee, designated by the Employer, provided such notice also specifies the three conditions set forth in the first paragraph of Section 9 of this Article.

Notwithstanding anything contained herein to the contrary, discontinuance of payment of Contributions shall be deemed to have occurred on the first day of the calendar month next following the transfer of the balance of the Supplemental Fund to another insurance company or trustee in accordance with this Section, unless the Company and the Employer agree otherwise, in writing, prior to the date of such transfer.

(iii) *Transfer to the Fund After Discontinuance of Payment of Contributions*

In the event the payment of all Contributions hereunder is discontinued in accordance with Section 7 of this Article, the operation of the Supplemental Fund shall continue, prior to the termination of the Fund, in the same manner as if there had been no discontinuance of the payment

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of all Contributions unless otherwise agreed upon in writing between the Employer and the Company before, on, or after the discontinuance of the payment of all Contributions. On termination of the Fund, the balance in the Supplemental Fund shall be transferred to the Fund and used in accordance with Section 7 of this Article, subject to such annuity purchase rates as the Company shall then determine.

(iv) *Transfer Between Investment Classes*

The Company will, upon notice from the Employer, transfer a part or all of the balance in the Supplemental Fund which is held in a particular class of investment in the Separate Investment Account to another investment class of such Account but, except as may result from transfers described in (i) of this sub-section, no such transfer shall be made without the consent of the Company more often than once in any twelve month interval with the amount of transfers in such twelve month interval not to exceed an amount equal to four times the sum of (a) the normal cost for such year as defined in the third paragraph of Section 1 of this Article, and (b) 10% of any past service costs attributable to any increases in benefits to employees, provided by amendments to the Plan and determined on the effective date of each such amendment.

(v) *Conditions of Transfer*

The transfers described in this sub-section D shall be subject to the following conditions:

- (a) Any notice from the Employer for a transfer under (ii) and (iv) must be in writing and filed with the Company at its Home Office.

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In the case of any investment class, which is invested primarily in common stock, such notice must be given at least thirty days prior to the date transfer is to be made. In the case of any other investment class, such notice must be given at least ninety days prior to the date the transfer is to be made. The Company, if it so elects, may waive the thirty or ninety day notice period. Except for transfers described in (ii) and (iii) of this sub-section, such notice shall specify the class or classes of investments in which the Supplemental Fund is invested from which transfer is to be made.

- (b) Transfers will be made only as of the last working day of the month following expiration of either or both the thirty or ninety day advance notice period, whichever is applicable, with valuation of the amounts in the Supplemental Fund being made as of the day of transfer.
- (c) The Company shall have a reasonable period upon the expiration of the thirty or ninety day advance notice period in order to make the necessary computations and arrange for payment and shall have the right to defer making transfer during any period when regular banking activities have been suspended, securities exchanges are closed or there is restricted trading on any stock exchange, or for any period when an emergency or other circumstance beyond the control of the Company exists and as a result of which the disposal of securities, including the sale, delivery thereof or receipt of payment by the Company is not reasonably practicable or it is not reasonably practicable

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for the Company to determine fairly the value of the assets of the Supplemental Fund.

- (d) If the Company determines that the amount and character of any securities which are to be disposed of in order to make a transfer are such that the disposal could not be accomplished in an orderly manner and without undue sacrifice as to price or without undue expense, it may defer the making of a transfer for such period as it deems necessary with the amount to be transferred being determined on the date of transfer. However, in lieu of such deferment, upon written request of the Employer, the Company will determine the amount to be transferred by segregating as a class for investment purposes, and for the apportionment of interest, capital gains, capital losses, expenses and taxes, the securities it determines would be disposed of in order to make the transfer. In the event of such segregation, the Company will also, if the Employer so requests and if the transfer is one which is to be made to another insurance company or to a trustee, make the transfer wholly or partially in securities rather than in cash, transferring the securities it determines would otherwise have been sold in order to make a cash payment. No such transfer of securities will be made, however, except as permitted by applicable laws.

Termination of the Supplemental Fund shall occur on the date the balance then remaining in the Supplemental Fund is disposed of either by transfer to another insurance company or trustee in accordance with item (ii) of this sub-section or by placing it in the Fund in accordance with item (iii) of this sub-section.

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SECTION 11. Maximum Considerations Applicable to Certain Employees

Notwithstanding anything contained herein to the contrary, if on any date the Plan is terminated and a limitation must be placed upon payments to an employee in accordance with applicable United States Treasury Department regulations, then the company will cancel any Annuities which must be cancelled in accordance with the applicable provisions of the Plan, as of the ninetieth day following the date of such termination of the Plan, providing such employee is living on such ninetieth day. Such cancellation of Annuities shall have no effect on Retirement Annuity payments which have become payable prior to the date on which such cancellation becomes effective.

If the date of cancellation of Annuities is prior to the date of termination of the Fund, the amount included in the Liabilities of the Fund on account of the portion of the Annuities cancelled shall be released from the Liabilities of the Fund. If the date of cancellation of Annuities is on or after the date of termination of the Fund, an amount equal to the reserve on such cancelled Annuity computed on the basis of interest and mortality used in determining the Considerations therefor shall be applied as provided for in the immediately following paragraph. Payment of the portion of the yearly amount of Retirement Annuity which is still in force after any cancellation shall be continued in accordance with the provisions of this Contract.

The reserves released upon the cancellation of Annuity on or after the date of termination of the Fund, in accordance with the immediately preceding paragraph, shall be applied as of the date of such cancellation in a manner determined by the Company for the benefit of all employees or all employees of any specified class or classes covered hereunder on such date, as determined by the Employer in accordance with the Plan; provided, however, that such application shall not result in substantial discrimination in the favor of the more highly compensated employees covered hereunder on such date as a class. Any amount

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applied in accordance with this paragraph for the benefit of an employee whose Annuity has been cancelled shall not result in the total amount of Annuity being provided or purchased for such employee which is greater than the maximum amount specified in the applicable United States Treasury Department regulations.

Notwithstanding anything contained herein to the contrary, if on any date a limitation must be placed upon payments to an employee in accordance with applicable United States Treasury Department Regulations, and such limitation need be only a temporary one because of failure to meet the full current costs of the Plan, an amount, determined in accordance with the applicable provisions of the Plan, shall be withheld by the Company from each Retirement Annuity payment becoming payable to such employee on or after the forty-fifth day following the date such limitation becomes necessary and prior to the time when such full current costs have again been met or the Plan is terminated. Such withheld amounts shall be held by the Company until either the Plan has been terminated or the full current costs of the Plan have been met. If the Plan is terminated, such withheld amounts shall be applied in the same manner as is provided for in the immediately preceding paragraph of this Section. If the full current costs of the Plan are met, the Company will, at the direction of the Employer, make payment of such withheld amounts to the person or persons to whom such amounts would have been payable if such amount had not been withheld.

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ARTICLE IV. RETIREMENT ANNUITY PROVISIONS

SECTION 1. Mode of Payment of Retirement Annuity

Retirement Annuity payments hereunder to any person shall be payable monthly if the yearly amount of Retirement Annuity payable to such person under this Contract is not less than \$120, each monthly payment being one-twelfth of such yearly amount.

If the yearly amount of Retirement Annuity payable under this Contract to an employee is less than \$120 but not less than \$40, such Retirement Annuity shall be payable quarterly, each quarterly payment being one-fourth of such yearly amount.

If the yearly amount of Retirement Annuity payable under this Contract to an employee is less than \$40, and termination of the Fund has not occurred, then in full settlement of such Retirement Annuity, a payment shall be made to the employee as of his Annuity Commencement Date equal to the amount included in the Liabilities of the Fund for such Retirement Annuity with respect to such employee on his Annuity Commencement Date.

SECTION 2. Retirement Annuity Commencing on Normal Retirement Date

The yearly amount of Normal Retirement Annuity which is payable to an employee covered hereunder shall be the yearly amount of Normal Retirement Annuity purchased or provided hereunder on his account which is in effect on his Normal Retirement Date.

The first Normal Retirement Annuity payment to be made to the employee shall be payable on his Normal Retirement Date if he is then living. Subsequent Normal Retirement Annuity payments to the employee shall be payable during his lifetime in accordance with Section 1 of this Article and shall cease with the last payment due prior to his death.

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When the Option of Continuance of Retirement Annuity to Contingent Annuitant is in effect with respect to an employee, continuance of Retirement Annuity payments to his surviving Contingent Annuitant shall be governed by the applicable provisions of such option.

The provisions of this Section shall apply separately on account of a female employee on whose account Retirement Annuities were cancelled on January 1, 1968 with respect to the yearly amount of Normal Retirement Annuity described in (i) of sub-section B of Section 2 of Article II and the yearly amount of Normal Retirement Annuity described in (ii) of sub-section B of Section 2 of Article II.

SECTION 3. Retirement Annuity Commencing on an Optional Retirement Date

In lieu of Normal Retirement Annuity payments hereunder, an employee on written request of the employee alone, or of the Retirement Committee alone, filed with the Company at its Home Office, shall be entitled, provided he qualifies in accordance with the Plan, to Retirement Annuity payments for a reduced amount commencing on an earlier Optional Retirement Date, which date may be the first day of any month subsequent to the filing of such request; subsequent Retirement Annuity payments to the employee shall be payable during his lifetime in accordance with Section 1 of this Article and shall cease with the last payment due prior to his death; provided, however, the requirements for an earlier Optional Retirement Date as described in Section 3 of Article IV of Part A, Part B, Part C, Part D or Part E of this Contract, as in effect on December 31, 1967, will be applicable with respect to that portion, if any, of the Retirement Annuity attributable to Retirement Annuities cancelled on December 31, 1967. The yearly amount of Retirement Annuity payable hereunder to an employee commencing on his earlier Optional Retirement Date shall, provided such date is prior to the date of termination of the Fund, and provided an Optional Form of Retirement Annuity is not in effect with respect to him, be equal to the yearly

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amount of Retirement Annuity, as determined in accordance with sub-section C of Section 4 of Article II, which is provided for the employee on such date.

In lieu of Normal Retirement Annuity Payments on written request of such employee and the Retirement Committee filed with the Company at its Home Office at least thirty days prior to the Normal Retirement Date of the employee, shall be entitled to Retirement Annuity payments commencing on a later Optional Retirement Date subsequent to the Normal Retirement Date of the employee. Such later Optional Retirement Date shall be the earliest of the following dates:

- (i) The first day of the month following receipt by the Company at its Home Office of written notice from the Retirement Committee that the employee has retired from the active service of the Employer.
- (ii) The date of termination of the Fund in accordance with Section 7 of Article III.
- (iii) In the case of a female employee on whose account Retirement Annuities were cancelled on January 1, 1968, the first day of the month next following the month in which the sixty-fifth birthday of the employee occurs unless the date of birth is the first day of the month in which event the later Optional Retirement Date shall be the sixty-fifth birthday of the employee, unless a later Optional Retirement Date becomes effective with respect to any Normal Retirement Annuity to be provided for the employee in accordance with (ii) of sub-section B. of Section 2 of Article II in which event this item shall not be applicable.

Subsequent Retirement Annuity payments to the employee shall be payable during this Lifetime in accordance with Section 1 of this Article and shall cease with the last payment prior to his death. The yearly amount of Retirement Annuity payable hereunder to an employee commencing on his later Optional

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Retirement Date shall, provided such date is prior to the termination of the Fund, and provided an Optional Form of Retirement Annuity is not in effect with respect to him, be equal to the amount of Retirement Annuity which is provided on his account on his Normal Retirement Date, determined in accordance with sub-section D. of section 2 of Article II.

Notwithstanding anything contained in this Contract to the contrary, a later Optional Retirement Date will become effective automatically with respect to each employee who remains in the regular active service of the Employer after his Normal Retirement Date provided such later Optional Retirement Date could otherwise become effective on written request of the Retirement Committee alone as provided in the immediately preceding paragraph. Each such employee shall be specified by the Retirement Committee in a written notice filed with the Company at its Home Office.

If the Option of Continuance of Retirement Annuity to Contingent Annuitants or the Option of Life Annuity with Payments for Five Years Certain is in effect with respect to an employee on whose account a Termination of Employment Date occurred prior to January 1, 1968, the Company shall have the right to require evidence satisfactory to itself of the good health of such employee before granting a request for an earlier Optional Retirement Date unless such earlier Optional Retirement Date is at least three years subsequent to the date written request therefor is filed with the Company at its Home Office.

When both an Optional Retirement Date and an Optional Form of Retirement Annuity are in effect with respect to an employee, Retirement Annuity payments hereunder shall be governed also by the applicable provisions of such Optional Form of Retirement Annuity.

The provisions of this Section shall, in the case of an employee on whose account Retirement Annuities were cancelled on January 1, 1968, apply separately with respect to the yearly amount of Normal Retirement Annuity described in (i) of

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sub-section B. of Section 2 of Article II and the yearly amount of Normal Retirement Annuity described in (ii) of sub-section B. of Section 2 of Article II; provided, however, that payment of all Retirement Annuities with respect to such employee shall commence on the same date.

In the case of a female employee on whose account Retirement Annuities were cancelled on January 1, 1968 and for whom any Retirement Annuity is to be provided hereunder on and after January 1, 1968, in accordance with (ii) of sub-section B. of Section 4 of Article II, an earlier Optional Retirement Date shall automatically become effective with respect to such Retirement Annuity unless

- (a) a prior earlier Optional Retirement Date becomes effective with respect to such employee in accordance with the foregoing provisions of this Section, or
- (b) a later Optional Retirement Date becomes effective with respect to any Normal Annuities cancelled on January 1, 1968 on account of such employee and such later Optional Retirement Date is on or after the fifth anniversary of the Normal Retirement Date with respect to such Normal Annuities.

Such automatic earlier Optional Retirement Date shall be the Normal Retirement Date, or later Optional Retirement Date, whichever is applicable, with respect to any Normal Annuities cancelled on January 1, 1968.

SECTION 4. Optional Forms of Retirement Annuity

Subject to the conditions contained herein, the Company will grant any one of the Optional Forms of Retirement Annuity outlined under (A), (B) and (C) of this Section to an employee entitled thereto in accordance with the Plan; provided a written request for any such Optional Form of Retirement Annuity if filed with the Company at its Home Office prior to the employee's Normal Retirement Date or earlier Optional Retirement Date, if such is in effect.

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(A) Option of Continuance of Retirement Annuity to Contingent Annuitant

In lieu of the amount of Retirement Annuity otherwise payable to an employee under this Contract, such employee on being granted this Option shall be entitled to a reduced amount of Retirement Annuity commencing on the same date as the Retirement Annuity otherwise payable to him with provision for the continuance of such reduced amount of Retirement Annuity or of a specified portion thereof after his death for life to a designated Contingent Annuitant, subject to the terms and conditions hereof.

The terms and provisions of this option will be determined by the Retirement Committee in accordance with the Plan.

Notwithstanding anything contained herein to the contrary, the Company reserves the right not to grant this option to any employee and the right to make it inoperative with respect to any employee to whom it has already been granted if the yearly amount of Retirement Annuity payable to his Contingent Annuitant would be less than \$120.

(B) Option of Increased Retirement Annuity Payments Until Social Security Commencement Date

In lieu of the amount of Retirement Annuity otherwise payable under this Contract, such employee on being granted this option, shall be entitled to an increased amount of Retirement Annuity commencing on his Annuity Accrual Date and payable during his lifetime until the attainment of his Social Security Commencement Date with provision for the continuance of the reduced amount of Retirement Annuity thereafter during his lifetime, subject to the terms and conditions hereof.

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The terms and provisions of this option will be determined by the Retirement Committee in accordance with the Plan.

Notwithstanding anything contained herein to the contrary, the Company reserves the right to modify the provisions of this option with respect to any employee to whom it has been granted, if the yearly amount of Retirement Annuity payable to him after his Social Security Commencement Date would be less than \$60.

- (C) Option of Life Annuity With Payments for Five Years Certain, for Ten Years Certain, for Fifteen Years Certain or for Twenty Years Certain

In lieu of the amount of Retirement Annuity otherwise payable to an employee under this Contract and in lieu of the amount of any death benefit which might otherwise be payable in accordance with Section 5 of this Article, an employee, on being granted this option, shall be entitled to an adjusted amount of Retirement Annuity commencing on the same date as the Retirement Annuity otherwise payable to him with the provision that on receipt of satisfactory proof at its Home Office that his death has occurred during the five year period, the ten year period, the fifteen year period, or the twenty year period, whichever period is elected by the employee, commencing with such date, the Company, subject to the terms and conditions hereof, will pay to the beneficiary of the employee on the first day of each month subsequent to the employee's death and prior to the fifth anniversary, the tenth anniversary, the fifteenth anniversary, or the twentieth anniversary, whichever is applicable, of the Annuity Commencement Date of the employee, an amount equal to the adjusted Retirement Annuity payment which would have been payable to the employee on the first day of each such month if he

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had survived until the fifth anniversary, the tenth anniversary, the fifteenth anniversary, or the twentieth anniversary, whichever is applicable, of his Annuity Commencement Date.

The terms and provisions of this option will be determined by the Retirement Committee in accordance with the Plan.

Notwithstanding anything contained herein to the contrary,

- (i) in the event the employee has designated as beneficiary his estate, or in the event the beneficiary is a corporation, association, partnership or trustee, the Company shall commute the payments which would otherwise be payable to such beneficiary, using the interest rate upon which the Considerations required to purchase or provide such annuity was based, such interest to be compounded annually, and shall pay such commuted value in one sum to the beneficiary of the employee, and
- (ii) in the event there is no designated beneficiary living, the Company shall commute the payments which would otherwise be payable to the beneficiary, using the interest rate upon which the Consideration required to purchase or provide such annuity was based, such interest to be compounded annually, and shall pay such commuted value in one sum, in accordance with the second paragraph of Section 2 of Article V, and
- (iii) the Company reserves the right not to grant this option to the employee and the right to make it inoperative with respect to any employee to whom it has already been granted, if the yearly amount of Retirement Annuity payable to the Employee under this option would be less than \$120.

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A. Notwithstanding anything contained herein to the contrary,

- (a) if the Termination of employment Date of an employee occurred prior to January 1, 1968, then the provisions of this Section as in effect under Part A, Part B, Part C, Part D or Part E, whichever is applicable, prior to January 1, 1968 shall be applicable with respect to such employee.
- (b) if an Optional Form of Retirement Annuity was elected by an employee prior to January 1, 1968 the terms and conditions of such Optional Form of Retirement Annuity with respect to any Retirement Annuity cancelled on January 1, 1968 shall be determined in accordance with the provisions of this Section as in effect under Part A, Part B, Part C, Part D or Part E, whichever is applicable with respect to the employee prior to January 1, 1968.
- (c) on and after termination of the Fund the terms and conditions of any Optional Form of Retirement Annuity to be provided hereunder with respect to any Retirement Annuity cancelled on January 1, 1968 shall be determined in accordance with the provisions of this Section as in effect under Part A, Part B, Part C, Part D or Part E, whichever is applicable with respect to the employee, prior to January 1, 1968

SECTION 5. Death Benefit

On receipt of satisfactory proof at its Home Office that the death of an employee has occurred prior to his Annuity Commencement Date and provided an Optional Form of Retirement Annuity is not in effect, the Company will pay to the beneficiary of the employee in one sum an amount equal to his Employee's Accumulation, if any.

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On receipt of satisfactory proof at its Home Office on and after the Annuity Commencement Date of an employee that the death of the employee has occurred or that the death of the last survivor of the employee and his Contingent Annuitant, if the Option of Continuance of Retirement Annuity to Contingent Annuitant was in effect with respect to him, the Company will pay to the beneficiary of the employee in one sum the amount, if any, by which the amount of the Employee's Accumulation which would have been payable if his death had occurred immediately before his Annuity Commencement Date exceeds the aggregate amount of the Retirement Annuity payments which have become payable hereunder to the employee or the employee and his Contingent Annuitant, if the Option of Continuance of Retirement Annuity to Contingent Annuitant was in effect with respect to him, exclusive of that portion of such Retirement Annuity payments which were attributable to any Additional Future Services Annuities, any Past Service Annuities and any Supplemental Annuity with respect to the employee which were cancelled on January 1, 1968 and any Retirement Annuity provided for the employee under the Plan on and after January 1, 1968.

On the death of an employee included under the Plan who was an employee of Univac Salt Lake City or Univac Bristol, Univac Division of Sperry Rand Corporation, the Company prior to the termination of the Fund and on the written request of the Employer, shall pay to the beneficiary of the employee in one sum the amount of death benefit payable in accordance with the Plan on account of the death of the employee, as determined by the Employer. On account of each such payment which is made by the Company in accordance with this paragraph, there shall be deducted from the Fund an amount equal to such payment, and such payment shall fully discharge any and all liability of the Company with respect to such deduction.

Unless satisfactory proof is furnished to the Company not later than five years after his Normal Retirement Date that an employee was living on such date, it shall be conclusively

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presumed for the purposes of this Contract that his death occurred immediately prior to his Normal Retirement Date.

By written notice in a form satisfactory to the Company filed at its Home Office, the employee, or the beneficiary of the employee if no such election has been made by the employee during his lifetime, may elect that in lieu of payment in one sum of the amount of death benefit, provided in accordance with the first and second paragraphs of this Section payment shall be made by the Company to the beneficiary of the employee in accordance with, subject to the conditions contained therein, one of the options described in Section 5 of Article IV of Part A, Part B, Part C, Part D or Part E of this Contract, as in effect on December 31, 1967.

SECTION 6. Employee's Options on Termination of Employment

I. Provisions Applicable to an Employee with Respect to Deferred Annuities Cancelled on January 1, 1968

A. If the Termination of Employment Date of an employee occurs prior to the discontinuance of the payment of Contributions hereunder in accordance with Section 7 of Article III, then within ninety days of such Termination of Employment Date and in lieu of all benefits otherwise payable hereunder to him or on his death to his beneficiary, the employee may elect one of the following options:

- (a) A cash surrender value equal to his Employee's Accumulation.
- (b) A yearly amount of Normal Retirement Annuity to be provided on his Normal Retirement Date, equal to the yearly amount of Normal Retirement Annuity which could be provided

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on the basis of Table I of Article VI by his Employee's Accumulation on his Normal Retirement Date, except that in no event shall such yearly amount of Normal Retirement Annuity be less than the yearly amount of Normal Retirement Annuity which would have been provided by his own contributions made prior to January 1, 1968 under the terms of the Contract as in effect on December 31, 1967; provided, however, that if the employee on or before his Termination of Employment Date has

(i) met the vesting requirements as determined under the terms of Part A, Part B, Part C, Part D or Part E of the Contract, whichever is applicable to him, as in effect on December 31, 1967, or

(ii) met the vesting requirements as determined by the Retirement Committee in accordance with the Plan, the yearly amount of Normal Retirement Annuity to be provided shall be equal to the yearly amount of Normal Retirement Annuity purchased on his account which was cancelled on January 1, 1968.

B. If the Termination of Employment Date of an employee occurs on or after the date of discontinuance of the payment of contributions hereunder in accordance with Section 7 of Article III and prior to termination of the Fund, then within ninety days of such Termination of Employment Date and in lieu of all benefits otherwise payable hereunder to him or on his death to his beneficiary, the employee may elect either one of the following options:

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- (a) A cash surrender value equal to his Employee's Accumulation. Such employee shall be entitled also to have a yearly amount of Normal Retirement Annuity provided for him on his Normal Retirement Date equal to the excess of (i) over (ii) below.
- (i) The yearly amount of Normal Retirement Annuity purchased on his account which was cancelled on January 1, 1968.
 - (ii) The yearly amount of Normal Retirement Annuity which could be provided on the basis of Table 1 of Article VI by his Employee's Accumulation on his Normal Retirement Date.
- (b) A yearly amount of Normal Retirement Annuity to be provided on his Normal Retirement Date, equal to the yearly amount of Normal Retirement Annuity purchased on his account which was cancelled on January 1, 1968.
- C. If option (b) of either A or B of this sub-section is applicable to an employee, a death benefit shall continue to be provided on his Account, the amount of which shall be determined in the manner described in Section 5 of this Article, and a cash surrender value shall continue to be provided prior to his Normal Retirement Date or earlier Optional Retirement Date, if such has been elected, for an amount equal to his Employee's Accumulation.

If prior to discontinuance of the payments of contributions hereunder, the employee elects to receive a cash surrender value in lieu of any Retirement Annuity to be provided on his Normal Retirement Date under option (b) of sub-section A of this

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Section, such election shall be in lieu of all benefits otherwise payable hereunder to him or on his death to his beneficiary.

If, on or after the date of discontinuance of the payment of contributions hereunder and prior to the termination of the Fund, the employee elects to receive a cash surrender value in lieu of any Retirement Annuity to be provided on his Normal Retirement Date under option (b) of A of this Section, such election shall be in lieu of all benefits otherwise payable hereunder to him or on his death to his beneficiary, unless on or before his Termination of Employment Date he had

- (a) met the vesting requirements as determined under the terms of Part A, Part B, Part C, Part D or Part E of the Contract, whichever is applicable to him, as in effect on December 31, 1967, or
- (b) met the vesting requirements as determined by the Retirement Committee in accordance with the Plan,

in which event he shall be entitled to have provided for him on his Normal Retirement Date the yearly amount of Retirement Annuity which would have been provided for him if B of this sub-section had been applicable to him on his Termination of Employment Date and he had elected option (a) thereof.

If, prior to the date of termination of the Fund, the employee elects to receive a cash surrender value in lieu of any Retirement Annuity to be provided on his Normal Retirement Date under option (b) of B of this sub-section, nevertheless he shall be entitled to have provided for him on his

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